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THE
SOLICITORS' JOURNAL

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CURRENT TOPICS

Incurable Unsoundness of Mind

SECTION 1 (1) (*d*) of the Matrimonial Causes Act, 1950, stipulates that a petition for divorce may be presented to the court on the ground that the respondent "is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition." The meaning of the expression "care and treatment" was extended by s. 1 (1) of the Divorce (Insanity and Desertion) Act, 1958, but the real point in issue in *Webb* v. *Webb*, which we report at p. 709, was whether the respondent husband was "incurably of unsound mind": there was no doubt that he had been continuously under care and treatment for more than five years before the presentation of his wife's petition. Medical evidence supported the wife's contention that her husband was incurably insane and doctors said that he was suffering from paranoid psychosis, which manifested itself in the form of delusions and the belief that his wife and neighbours were persecuting him. However, the respondent husband took the unusual course of going into the witness box and denying that he was incurably insane and Mr. Commissioner LATEY, Q.C., dismissed the petition because he took the view that the respondent was quite capable of managing his own affairs and seemed to be a perfectly normal and reasonable man. In deciding whether the respondent was "incurably of unsound mind" the learned commissioner applied the test laid down by PHILLIMORE, J., in *Whysall* v. *Whysall* [1960] P. 52. In that case his lordship concluded that the test is "whether by reason of his mental condition [the respondent] is capable of managing himself and his affairs and, if not, whether he can hope to be restored to a state in which he will be able to do so." His lordship added the rider that the capacity to be required is that of a reasonable person.

County Court Rules Amended

THE County Court (Amendment) Rules, 1961 (S.I. 1961 No. 1526), coming into operation on 15th September, were published earlier this week. A variety of detailed amendments is made. These include changes in the rule relating to venue in actions under hire-purchase agreements and contracts for the sale or hire of goods (r. 2 (1)); removing the restrictions on the issue of summonses against domestic and outdoor servants and persons engaged in manual labour (rr. 2 (2) and 3); requiring the registrar to examine every case in the judge's list to see whether directions are needed under Ord. 13, r. 3 (rr. 6 and 22); replacing the rules relating to the taxation of costs and recovery of money awarded by particular tribunals

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by general provisions applying to them all (rr. 9, 13 and 19); increasing the fees payable to assessors and witnesses of fact (rr. 10 and 24); requiring an originating application under s. 24 of the Landlord and Tenant Act, 1954, to be served within one month unless the time is extended by the court (r. 11); and providing in the scales of costs (*a*) for fees to counsel for advice on the amount of a claim, on settlement, etc., and (*b*) for the cost of photographic copies (r. 23).

Harbouring: Eluding Justice

In a recent case at Marylebone Magistrates' Court a man was charged with harbouring two men who were wanted for offences in Doncaster. The accused admitted that he knew the men were wanted for an offence and that he had allowed them to live in his home but, in spite of this admission, the prosecution asked for the charge to be withdrawn. It seems that in order to make a person an accessory after the fact it must be shown that he sheltered the felon in such a way as to enable him to elude justice: merely suffering a felon to escape is not sufficient (*R.* v. *Chapple* (1840), 9 Car. & P. 355). Indeed, the jury must be satisfied that the person alleged to be an accessory after the fact did the act alleged to constitute him an accessory knowing that the principal was guilty of the felony charged against him and for the purpose of assisting the principal to escape conviction: *R.* v. *Levy* [1912] 1 K.B. 158. In the case in question it appears that the accused did not give the two men such active assistance to elude justice as would make him an accessory after the fact, but it would have been otherwise if he had shut the door against their pursuers until they had an opportunity to escape: 1 Hale 619.

Indecent Communications

As would be expected, it is an offence to send a postal packet which encloses any explosive, dangerous, noxious or deleterious substance, any filth, any sharp instrument not properly protected, any noxious living creature, or any creature, article or thing whatsoever which is likely to injure either other postal packets in course of conveyance or an officer of the Post Office: s. 11 (1) (*a*) of the Post Office Act, 1953. The sending of such a postal packet may be expressly permitted by Post Office regulations (ibid.), but it may not be so widely known that it is also an offence to send a postal packet containing, *inter alia*, any indecent or obscene written communication (ibid., s. 11 (1) (*b*)). In this context "postal packet" includes a letter, postcard and telegram (ibid., s. 87 (1)) and in a recent case at Newcastle upon Tyne Magistrates' Court a man was charged with sending a postal packet containing an indecent written communication. It seems that the man wrote to complain to a cinema company about a visit to a cinema and, in the course of that letter, used three words and one expression which, he maintained, were good old-fashioned examples of the English language which were in everyday use. The court had to decide whether the words used were "indecent" within the meaning of the Act of 1953 and the magistrates were guided by the Oxford English Dictionary, which defines the term as "unbecoming; highly unsuitable or inappropriate; contrary to the fitness of things; in extremely bad taste; unseemly." In the event it was held that one of the words used was "indecent," but the accused was given a conditional discharge. Of course, it is also an offence to send a message by telegram which is of an indecent character: ibid., s. 66 (*a*).

Recorded Delivery Service Insufficient

Section 241 of the Road Traffic Act, 1960, provides that for certain offences the defendant must have been warned at the time of the possibility of a prosecution for those offences. If such a warning was not given then he must either have been served with the summons within fourteen days of the offence or been given notice of the possibility of the prosecution within fourteen days of the offence. The summons or the notice of intended prosecution if sent by post must be sent by "registered post"; this should be contrasted with s. 243, concerning proof in summary proceedings of the identity of a driver of a vehicle, which refers to proof of serving certain information on the accused "by post." Since last February the General Post Office has been advertising its recorded delivery service as suitable to replace registered post for such purposes as dispatch of documents. That the recorded delivery service is not equivalent to registered post for the purposes of complying with requirements of statutes and regulations stipulating the use of the latter for service of formal notices has long been suspected. On Monday the point was successfully taken before the magistrates sitting at Oakmere, Cheshire. According to a report in Tuesday's *Daily Telegraph*, a solicitor was then prosecuted for dangerous driving and, alternatively, careless and inconsiderate driving. He was also summoned for failing to obey a traffic sign. Notice of intended prosecution was served by recorded delivery service and not by registered post. Because of this the summonses against the solicitor were dismissed. Last month a Government spokesman in the Lords disclosed that the Government intend that generally recorded delivery will be permitted in the future as an alternative to registered post for the service of documents and notices by post. Preparatory work was in hand for the requisite Bill to amend the statutes. Defendants thus may not have the opportunity to utilise this line of defence much longer. The time will be still shorter if all prosecuting authorities utilise the registered post until appropriate amendments have been made to the relevant Acts and regulations.

An Economic Necessity

The proprietors of The Solicitors' Journal regret that it has been necessary to review the subscription rate in relation to costs including, from 1st September, a further increase in printing charges and, from 1st October, another rise in the cost of posting the weekly issues. In making the review, the proprietors have had closely in mind that a vast amount of post-war increases have been absorbed by reason of the constant and very substantial rise in our circulation. For twenty successive years we have been proud to record an increase in the number of our readers. None the less there is obviously a limit to our ability to act as "blotting paper" in soaking up increased costs and if our standards are to be maintained—and indeed improved—we must eventually ask our readers for something extra. After most careful consideration it has been decided to let the subscription rate remain unchanged but to ask our readers who have copies posted to them to pay the cost of postage (13s. 4d.) as their subscriptions fall due for renewal on and after 1st October, 1961. As postage will have gone up from 1d. to 3d. per copy, the price of the Journal itself will be noticeably less than twice that of 1939 (single copies will still cost 1s. 9d. compared with 1s.). It is difficult to think of many things of which this can be said.

THE TRUSTEE INVESTMENTS ACT, 1961—I

On 3rd August, 1961, the Trustee Investments Act became law, nine years after the Nathan Committee on the Law and Practice of Charitable Trusts made its report recommending alterations to the investment powers of trustees.

The Act is not intended for trusts which give wide investment powers or for those which have been able to make use of the Variation of Trusts Act, 1958, but for the old trusts with restricted powers, for intestacies and for future cases where no special powers are laid down. The basic concept behind the Act of widening the investment powers of trustees is a simple one. Unfortunately, the terminology employed to express this concept is far from simple and it is only possible to paraphrase the terms of the Act in an article of this length and leave the reader to delve into its intricacies should the need arise—with, it is hoped, more success than one of the noble lords who, when referring to points in the Act, said that he did not know what they meant and found his inability very widely held.

Who is affected by the Act?

As solicitors are mainly concerned with trustees this article is directed towards how they are affected by the Act. It must be remembered, however, that the Act applies to others, such as local authorities with reference to their pension funds, friendly societies, persons for the time being authorised to invest funds of the Duchy of Lancaster and any persons specified in an order made by the Treasury by statutory instrument, being persons (whether trustees or not) whose power to make investments is conferred by or under any enactment contained in a local or private Act (s. 8 (2) (*b*)).

What does the Act do?

Section 1 of the Trustee Act, 1925, is repealed and replaced by Sched. I to the Act (reproduced in part at the end of this article), which contains a list of the investments in which a trustee may invest property in his hands. These are set out in Pts. I, II and III, but the power to invest in manner thereby authorised is restricted by the provisions of Pt. IV of that Schedule.

The investments authorised by Sched. I fall into two classes. Power is reserved by Order in Council to extend these powers of investment (see s. 12). Parts I and II of the Schedule consist of certain fixed-interest securities, mortgages and deposits with certain building societies, and are defined in the Act as "narrower-range" investments (see s. 1 (4)). The investments in Pt. III of the Schedule are defined as "wider-range" investments (see s. 1 (4)) and include company shares, shares in certain building societies and units of a unit trust scheme, subject to the qualification in Pt. IV of the Schedule.

Safeguards

A number of safeguards have been included to protect beneficiaries from the exercise of the wider powers of investment. The first, mentioned in s. 2, is that a trustee shall not have power to make or retain any wider-range investments unless the trust fund has been divided into two parts of equal value. Once this division has been made, no subsequent division of the same fund can be made and no property shall be transferred from one part of the fund to the other unless either (*a*) the transfer is authorised or required by the following provisions of the Act, or (*b*) a compensating transfer is made at the same time. One part must be invested in narrower-range investments and the other part in wider-range investments. This is the 50–50 rule which has been the subject of much Press comment.

The second safeguard relates to the duty of trustees in choosing investments and is contained in s. 6. In exercising his powers of investment a trustee must have regard to the importance of diversification, not only diversification of description of investment but of investments within a particular description. He must also consider the suitability of any proposed investment from the point of view of the purpose of the trust. The Act imposes an obligation on a trustee to obtain and consider advice on investments, though he does not have to follow it. It also leaves it to his discretion to decide at what intervals and in what circumstances advice should be obtained as to the trust investments. The advice, which to comply with the Act must be in writing, can be obtained from "a person who is reasonably believed by the trustee to be qualified by his ability in and practical experience of financial matters and such advice may be given notwithstanding that he gives it in the course of his employment as an officer or a servant."

The third safeguard is that securities other than Treasury bills and tax reserve certificates cannot be included unless they are quoted on a recognised stock exchange within the meaning of the Prevention of Frauds (Investment) Act, 1958, or on the Belfast Stock Exchange and are shares or debenture stock which are fully paid up, unless their terms of issue are such that they will be fully paid up within nine months of the date of issue.

The fourth safeguard is that the shares or debentures of an incorporated company cannot be included unless they comply with the terms mentioned under the third safeguard, and the total issued and paid up capital is £1 million and a dividend has been paid in each of the preceding five years on all the shares issued by the company. The criticism on this point mentioned at p. 97, *ante*, has been met by an amendment so that a company which has a "rights" or "bonus" issue and subsequently declares a dividend for which the new shares do not rank can now be included provided the points mentioned above apply.

Special range

The stringent provisions about dividing the trust into two equal parts could have caused considerable difficulties, especially where land or shares in a family company were held, had not the situation been recognised. Section 3 covers this type of case and creates a third range of investments which have come to be known as special-range investments. The special range comprises property which a trustee is authorised to hold under a special power. Section 3 allows him to put this property aside into the special range before dividing the rest of the trust into two equal parts.

Problems which may arise

A trustee of a trust instrument is under no obligation to make use of the powers granted by the Act, nor is there any specified time within which he must decide to use them. After a trustee has decided to use the Act and has made the division, the following problems may arise.

The wider-range part may well consist of investments of the narrower-range type at the time of the division. These

will presumably be switched into securities of the wider-range type. Once this division has been made, the trustee cannot switch cash or investments into the wider-range part without making a compensating transfer of narrower-range securities to the narrower-range part from the wider-range part (see s. 2 (2)).

If property accrues to the trust from investments it holds (e.g., realised profits) no problem arises and it belongs to the appropriate part (s. 2 (3) (*a*)). If property accrues to the trust from new funds consisting of investments of the wider-range type no compensating transfer can be made unless there happen to be narrower-range investments in the wider-range part, as only narrower-range investments can go to the narrower-range part. It follows that sufficient wider-range investments must be sold so that at the end the two parts benefit equally.

If property has to be taken out of the trust, e.g., to pay estate duty or a capital sum to a beneficiary on attaining twenty-one, the trustee has absolute discretion as to the choice of property to be taken out (s. 2 (4)). He can take it out of both parts or all out of one part. If he were to eliminate one part completely he would, of course, be open to criticism.

Illustrations of the working of the Act

A clearer picture of how the Act operates may be obtained by the following illustration. A trustee finds himself with a trust consisting of £3,000 in gilt-edged securities, £4,000 in I.C.I. and land valued at £5,000. The valuations have been made by persons reasonably believed by the trustee to be qualified to make them and therefore under the Act they are conclusive for the purposes of the division of the trust funds (s. 5 (1)). The total of the trust is £12,000, and so each part will have £6,000. The £3,000 in gilts will go to the narrower-range part and the £4,000 I.C.I. shares to the wider-range part. The land will have to be sold, as land is not included in either the narrower-range or wider-range investments under the Act. The proceeds will have to be apportioned as to £3,000 to the narrower-range part and £2,000 to the wider-range part.

If, however, the trust instrument gives the trustee a special power to hold land there is no longer the same difficulty because the land can be put in the special-range part allowed by s. 3. Thus the remainder of the trust fund, totalling £7,000, will have £3,500 in each part. All the trustee need do is to sell £500 of the I.C.I. shares.

If, as in the last example, there is a special power to hold land and that land is subsequently sold, then the proceeds will have to be divided equally between the two parts, either directly or by means of compensating transfers.

Carrying on the example, dividends received from the I.C.I. shares will have to be split equally between the two parts (s. 2 (3)), but scrip issues will belong to the wider-range part, as also will "rights issues" (but the subscription price for the latter must come from the wider-range part or from new funds accruing to the wider-range part).

If £2,000 of new property accrues to the trust £1,500 does not necessarily have to be divided between the two parts. Compensating transfers can be made so long as each part has benefited equally. This is so even though the value of the narrower-range part may have remained at £3,500 and the wider-range part appreciated by £1,000 to £4,500.

That the two parts may not keep in step with regard to their values is recognised by s. 13. This section gives power to the Treasury to modify the 50–50 rule within the limit of the ratio of 75 to 25. When this point was being discussed it was emphasised by the Government that there was no present intention of altering the ratio.

Old wills

Section 1 (2) may be the cause of considerable extra work for solicitors, as it has the effect of overriding trust instruments made before the Act even though the testator (in the case of a will) dies after the Act came into force. A post-Act trust instrument can express a contrary intention to the effect that the Act shall not apply. Testators who do not want the powers granted by the Act to apply will either have to execute a fresh will or execute a codicil confirming the will. How many solicitors will know whether the testators whose wills they have drafted want the Act to apply?

WHAT TRUSTEES MAY BUY

Schedule I (Pts. I to III, and Pt. IV, paras. 1 to 3) to the Trustee Investments Act, 1961

Manner of Investment

PART I

NARROWER-RANGE INVESTMENTS NOT REQUIRING ADVICE

1. In Defence Bonds, National Savings Certificates and Ulster Savings Certificates.

2. In deposits in the Post Office Savings Bank, ordinary deposits in a trustee savings bank and deposits in a bank or department thereof certified under subsection (3) of section nine of the Finance Act, 1956.

PART II

NARROWER-RANGE INVESTMENTS REQUIRING ADVICE

1. In securities issued by Her Majesty's Government in the United Kingdom, the Government of Northern Ireland or the Government of the Isle of Man, not being securities falling within Part I of this Schedule and being fixed-interest securities registered in the United Kingdom or the Isle of Man, Treasury Bills or Tax Reserve Certificates.

2. In any securities the payment of interest on which is guaranteed by Her Majesty's Government in the United Kingdom or the Government of Northern Ireland.

3. In fixed-interest securities issued in the United Kingdom by any public authority or nationalised industry or undertaking in the United Kingdom.

4. In fixed-interest securities issued in the United Kingdom by the government of any overseas territory within the Commonwealth or by any public or local authority within such a territory, being securities registered in the United Kingdom.

References in this paragraph to an overseas territory or to the government of such a territory shall be construed as if they occurred in the Overseas Service Act, 1958.

5. In fixed-interest securities issued in the United Kingdom by the International Bank for Reconstruction and Development, being securities registered in the United Kingdom.

6. In debentures issued in the United Kingdom by a company incorporated in the United Kingdom, being debentures registered in the United Kingdom.

7. In stock of the Bank of Ireland.

8. In debentures issued by the Agricultural Mortgage Corporation Limited or the Scottish Agricultural Securities Corporation Limited.

9. In loans to any authority to which this paragraph applies charged on all or any of the revenues of the authority or on a

fund into which all or any of those revenues are payable, in any fixed-interest securities issued in the United Kingdom by any such authority for the purpose of borrowing money so charged, and in deposits with any such authority by way of temporary loan made on the giving of a receipt for the loan by the treasurer or other similar officer of the authority and on the giving of an undertaking by the authority that, if requested to charge the loan as aforesaid, it will either comply with the request or repay the loan.

This paragraph applies to the following authorities, that is to say—

(*a*) any local authority in the United Kingdom;

(*b*) any authority all the members of which are appointed or elected by one or more local authorities in the United Kingdom;

(*c*) any authority the majority of the members of which are appointed or elected by one or more local authorities in the United Kingdom, being an authority which by virtue of any enactment has power to issue a precept to a local authority in England and Wales, or a requisition to a local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute;

(*d*) the Receiver for the Metropolitan Police District or a combined police authority (within the meaning of the Police Act, 1946);

(*e*) the Belfast City and District Water Commissioners.

10. In debentures or in the guaranteed or preference stock of any incorporated company, being statutory water undertakers within the meaning of the Water Act, 1945, or any corresponding enactment in force in Northern Ireland, and having during each of the ten years immediately preceding the calendar year in which the investment was made paid a dividend of not less than five per cent. on its ordinary shares.

11. In deposits by way of special investment in a trustee savings bank or in a department (not being a department certified under subsection (3) of section nine of the Finance Act, 1956) of a bank any other department of which is so certified.

12. In deposits in a building society designated under section one of the House Purchase and Housing Act, 1959.

13. In mortgages of freehold property in England and Wales or Northern Ireland and of leasehold property in those countries of which the unexpired term at the time of investment is not less than sixty years, and in loans on heritable security in Scotland.

14. In perpetual rent-charges charged on land in England and Wales or Northern Ireland and fee-farm rents (not being rent-charges) issuing out of such land, and in feu-duties or ground annuals in Scotland.

PART III

WIDER-RANGE INVESTMENTS

1. In any securities issued in the United Kingdom by a company incorporated in the United Kingdom, being securities registered in the United Kingdom and not being securities falling within Part II of this Schedule.

2. In shares in any building society designated under section one of the House Purchase and Housing Act, 1959.

3. In any units, or other shares of the investments subject to the trusts, of a unit trust scheme in the case of which there is in force at the time of investment an order of the Board of Trade under section seventeen of the Prevention of Fraud (Investments) Act, 1958, or of the Ministry of Commerce for Northern Ireland under section sixteen of the Prevention of Fraud (Investments) Act (Northern Ireland), 1940.

PART IV

SUPPLEMENTAL

1. The securities mentioned in Parts I to III of this Schedule do not include any securities where the holder can be required to accept repayment of the principal, or the payment of any interest, otherwise than in sterling.

2. The securities mentioned in paragraphs 1 to 8 of Part II, other than Treasury Bills or Tax Reserve Certificates, securities issued before the passing of this Act by the Government of the Isle of Man, securities falling within paragraph 4 of the said Part II issued before the passing of this Act or securities falling within paragraph 9 of that Part, and the securities mentioned in paragraph 1 of Part III of this Schedule, do not include—

(*a*) securities the price of which is not quoted on a recognised stock exchange within the meaning of the Prevention of Fraud (Investments) Act, 1958, or the Belfast stock exchange;

(*b*) shares or debenture stock not fully paid up (except shares or debenture stock which by the terms of issue are required to be fully paid up within nine months of the date of issue).

3. The securities mentioned in paragraph 6 of Part II and paragraph 1 of Part III of this Schedule do not include—

(*a*) shares or debentures of an incorporated company of which the total issued and paid up share capital is less than one million pounds;

(*b*) shares or debentures of an incorporated company which has not in each of the five years immediately preceding the calendar year in which the investment is made paid a dividend on all the shares issued by the company, excluding any shares issued after the dividend was declared and any shares which by their terms of issue did not rank for the dividend for that year.

For the purposes of sub-paragraph (*b*) of this paragraph a company formed—

(i) to take over the business of another company or other companies, or

(ii) to acquire the securities of, or control of, another company or other companies,

or for either of those purposes and for other purposes shall be deemed to have paid a dividend as mentioned in that sub-paragraph in any year in which such a dividend has been paid by the other company or all the other companies, as the case may be.

(To be concluded)

J. E. B.

"THE SOLICITORS' JOURNAL," 17th AUGUST, 1861

ON 17th August, 1861, THE SOLICITORS' JOURNAL wrote: "It is not often that the tranquil flow of judicial administration is disturbed by such an incident as that which occurred in the Court of Bankruptcy on Monday. An announcement by Mr. Commissioner Fane not only took the members of the Bar who were present by surprise, but afforded no little astonishment to the rest of the profession . . . who found in the Tuesday morning papers an invitation to Basinghall Street to hear the judge read a letter which he had addressed to Lord Palmerston 'expressing his feelings as to the manner in which the commissioners had been treated by the new Bankruptcy Bill, now to become law.' They were relieved from suspense on the following day by finding that the commissioner had . . . resolved to postpone reading the letter . . . The commissioner . . . expressed regret at the disappointment he had occasioned, which would not, however, be of long duration, for that, after the vacation, he should certainly read the letter. Whereupon, amidst much laughter . . . the assembly dispersed. We sincerely trust that the learned commissioner will be dissuaded from carrying out his resolution . . . Under any circumstances in the unfortunate demonstration which had been threatened . . . we can see nothing but accumulated breach of decorum . . . That a judge should write a complaint of part of the law which he has to administer, after it has passed through Parliament; that he should address himself, not to either branch of the Legislature, not to the Attorney-General, or the Lord Chancellor, who had charge of the Bill, but to the Premier during the recess; and that he should select his own court as the place in which to state his objections, and invite the legal profession to attend and hear him, is a combination of errors, which we should have thought it impossible that any judicial officer of the Crown could have dreamt of committing."

County Court Letter

PUTTING ON THE SCREW

It is repeated with almost nauseating regularity that the county court is the poor man's court, though in view of the introduction of legal aid and the increase of jurisdiction the description seems less appropriate now than it was in the past. However, it is true enough that many litigants find themselves poorer when they leave the court than when they go into it. But the poor man, we are told, is the one who has paid his debts, and if this is true, the county court sees a lot of people who are far from poor.

Various ways and means of making such people a little poorer exist, but generally speaking the judgment summons is one of the most effective. It will be remembered that under the Debtors Act, 1869, s. 5, a debtor can be committed to prison if he fails to pay any debt or instalment of a debt due from him, provided that the judge is satisfied that he either has or has had since the date of the judgment the means to pay and has refused or neglected or refuses or neglects to pay. In practice, a judge almost invariably makes an order in the first place for payment of the debt by instalments which he is perfectly certain the judgment debtor can afford. If they are not paid, then it is open to him to make a committal order under s. 5 which he will invariably suspend on payment of instalments of the same, or some lower amount. He is thus very safely within the provision of s. 5 and the debtor is given every possible protection from durance vile, which indeed he will only taste if he is plum obstinate. The judgment creditor is the only one who is likely to suffer, since his debt will be paid at an abnormally slow rate. Moreover, should the debtor be a man of no property and obstinate to boot, so that he goes to prison rather than pay, the wretched judgment creditor may find himself up against C.C.R., Ord. 25, r. 64, with the result that his chances of getting that bit of the debt in respect of which the debtor was imprisoned are snow-in-hell-worthy.

Raising the ante

Sometimes, a judgment creditor discovers that the debtor has more means than he has disclosed to the court, and rather naturally he would like to have the instalment order increased. This occurred in the case of *J. Cooke & Sons, Ltd.* (*trading as Drages*) v. *Binding* (a not inappropriately named defendant, surely) [1961] 3 W.L.R. 1; p. 442, *ante*. The debtor having failed to pay any instalments of a judgment debt, the plaintiffs applied for a committal order under s. 5. The judge made such an order suspended on payment of 10s. per month, which the defendant paid. Later, the plaintiffs found out that the defendant could in fact pay more, and applied for variation of the committal order. The judge held that he had no power to increase the order, but added that if he had had, he would have put it up to 25s. per month. He apparently felt himself bound by an earlier case, *Wiltshire* v. *Fell* [1960] 1 Q.B. 181.

In actual fact, this particular case was clearly directed to one point only; was a judge who had made a committal order *functus officio* so that he could not revoke it? The Court of Appeal decided that he was, but it did not say that he could not vary the terms of its suspension. On the contrary, in effect it confirmed such a variation.

Up she goes

Upjohn, L.J., said, in the main case under consideration, that power to vary the amount of instalments when a committal order had been made was contained in the proviso to s. 5 of the Debtors Act, 1869, which says: "For the purpose of this section any court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments and may from time to time rescind or vary such order."

Donovan, L.J., agreed with his brother, but added that he thought that the requisite power to vary could also be found in rr. 18 and 19 of C.C.R., Ord. 24. The latter gives the court power to raise the amount of instalments payable under "any" judgment or order, which certainly seems wide enough. Rule 18, however, refers specifically to applications made by the judgment debtor for the reduction of orders for payment, and for this reason it is submitted that the rule cannot apply to a case such as the one under consideration.

There will doubtless be those who will think that this blow for plaintiffs is a timely one, but in practice the proof of a debtor's means otherwise than by his own evidence tends to be a difficult and costly business. In the poor man's court, the dice are still loaded in favour of the, seemingly, poor judgment debtor. The poor (in the other sense of the word) judgment creditor has to wait.

J. K. H.

GENERAL CONSENT UNDER THE CONTROL OF BORROWING ORDER, 1958

Following the passing of the Trustee Investments Act, 1961, the Treasury have issued a revised General Consent (H.M.S.O., 3d.) under the Control of Borrowing Order, 1958. The new Consent came into operation on 4th August, 1961.

The differences between the previous General Consent (operative from 5th February, 1959), and the new one are not substantial; they do not involve any change of policy in the Treasury control of borrowing. The differences are: (i) in para. 3 of the Consent (which concerns the control of the terms of issue of certain securities) the reference to s. 1 of the Trustee Act, 1925 (which section was repealed by the Trustees Investments Act, 1961), has been replaced by a reference to paras. 1 to 5 of Pt. II of Sched. I to the Trustee Investments Act, 1961 (see p. 694, *ante*); (ii) opportunity has been taken to define, in relation to corporations, residence outside the United Kingdom for the purposes of para. 2 (*c*) of the Consent.

EGYPTIAN CLAIMS: TIME LIMIT

Under the Foreign Compensation Commission (Egyptian Claims) (Amendment) Rules, 1961, no application in respect of Egyptianised property (i.e., under Pt. III of the Foreign Compensation (Egypt) (Determination and Registration of Claims) Order, 1959) may, except by special leave, be considered unless it has been received by the Commission on or before 31st October, 1961.

TAX RESERVE CERTIFICATES

The Lords Commissioners of Her Majesty's Treasury have given notice that the rate of interest to be allowed on tax reserve certificates of the ninth series which are subscribed on and after 12th August, 1961, and until further notice, under the terms of the prospectus dated 21st March, 1961, will be 3½ per cent. per annum. The rate of interest on certificates of the ninth series subscribed before or on 11th August, 1961, will remain unchanged.

THE CASE OF THE SECTION FIVE CERTIFICATE

SECTION 5 of the Town and Country Planning Act, 1959, provides that, when land is not shown in the current development plan as an area of comprehensive development or scheduled for residential, commercial or industrial purposes or for mixed uses of this kind, it is possible for an owner whose property is threatened with compulsory purchase by the local authority to apply to the local planning authority for a certificate. This certificate has got to say whether, in the opinion of the local planning authority, planning permission could or could not "in the relevant circumstances reasonably have been expected to be granted for any development of the land in question other than the development (if any) which is proposed to be carried out by the authority by whom the interest is proposed to be acquired." There is an appeal against the decision of the local planning authority to the Minister.

The practical effect of getting a certificate is that on compulsory purchase the value of the land is related to the certificate. Thus if the certificate says that the land could have been used for housing purposes, if it had not been required for, say, an open space, a school site or school playing fields, then the local authority (not necessarily the planning authority) will have to pay housing instead of, say, agricultural value for the land. The payment is different from the claim against the global fund of £300m. because it is not related back to old-time values but pays every respect to present-day high market values. Thus the certificate is a boon almost beyond price.

Parrish v. *Minister of Housing and Local Government*

Into the confusion of s. 5 comes the recent case of *Parrish* v. *Minister of Housing and Local Government*, p. 708, *post*, which is interesting not only for its decision but for other points. The decision of the Minister in confirming a certificate was questioned by an applicant who sought to quash the action of the Minister. The basis of the action was that the Minister had in confirming the certificate not only confirmed the decision that planning permission would not have been granted, but confirmed with the decision the reasons given by the local planning authority, although in a separate letter he gave his own distinct reasons. The certificate applied for was that land which was being compulsorily purchased for a school playing field was suitable for residential and partly for hotel purposes. The reasons given for refusal by the county council were as follows :—

> "In the event of the land not being required as playing fields for a school it would have been retained as part of the Metropolitan Green Belt since the local planning authority maintain that residential development in this part of Hertford should not spread beyond the boundary shown on the county development plan to avoid harming the visual amenities of the land to the south and east which is within the Metropolitan Green Belt and shown on the plan as land of high landscape value."

The Minister's reasons were indicated in a letter accompanying his decision :—

> "He considers that the appeal site forms an important part of the open break between the residential area and the landscape feature 'Morgans Walk' in the Metropolitan Green Belt and that its development would be likely to impair the visual amenities of this part of Hertford. He has therefore come to the conclusion that, if the site were not to be acquired by the county council for school playing fields, permission could not reasonably have been expected to be granted for any alternative form of development."

In short, the Minister discounted the green belt reason.

Claim that applicant's interests had been prejudiced

The notice of motion seeking to quash the action of the Minister pointed out that the respondent in confirming the certificate had prejudiced the interests of the applicant in the following three ways :—

(*a*) The certificate contained a statement of the reasons for its issue which was inaccurate as to the facts adduced therein and the statement did not contain a true or accurate representation of the real reasons or all of them for the issue of the certificate and, accordingly, the certificate was not a true or valid certificate and not capable of confirmation, either in the unaltered form in which the respondent purported to confirm the certificate or at all.

(*b*) The certificate contained a statement of reasons for its issue, as confirmed by the respondent, which was not in accordance with the facts as found by the respondent, and the reasons stated therein were not the reasons given by the respondent for confirming the certificate and were not the true reasons for the respondent confirming the certificate.

(*c*) The certificate as confirmed and the notice confirming the certificate failed to contain either accurate or the true reasons for the respondent's action, but contained reasons which were at variance with the facts and with the respondent's true reasons for confirming the certificate.

It was also stated as a second reason that the action of the respondent by reason of the previous matters was not within the powers of the Town and Country Planning Acts, 1947 to 1959, or of the Tribunals and Inquiries Act, 1958.

Court's decision

Megaw, J., did not accede to these views and in fact took the view that as both the Minister and the local authority expressed their reasons, albeit different in substance (the Minister by letter), the provisions of the Tribunals and Inquiries Act, 1958, were complied with. He therefore dismissed the appeal.

The present case emphasises the discretion of the Minister ; it does not, however, remedy the uncertainty that exists in relation to s. 5 of the 1959 Act. Local authorities who wish to buy land for, say, open space, do not normally envisage that they should pay housing value for it ; normally they can ascertain the views of the local planning authority informally (if they are not themselves that authority) but the Minister is an unknown quantity on appeal and in some cases he has overruled the local planning authority. In one case at least in an area where planning appeals are normally turned down for reasons one of which is consistently that sufficient land is allocated for residential purposes in the development plan, a certificate for housing development was recently allowed on appeal when land of good agricultural content was required for a school. In fact the proposal for use as a school in the development plan some years before had been opposed on agricultural grounds. This uncertainty is affecting both sellers and purchasers and can only be removed if the Minister can issue a clearer declaration of his views than is contained in Circular No. 48/59.

R. P. C.

THE SCOPE OF AN ASSENT OF LAND

THE recent case, *Re Stirrup's Contract* [1961] 1 W.L.R. 449; p. 206, *ante*, gives occasion to examine the circumstances in which an assent in respect of land may properly be made. Before 1926 there was little doubt as to when an assent could be used. The Land Transfer Act, 1897, s. 3, enacted that "at any time after the death of the owner of any land, his personal representatives may assent to any devise contained in his will, or may convey . . . to any person entitled thereto as heir, devisee, or otherwise." Under that section an assent could be made only to a devise. It was necessary to make a conveyance to an heir or to a person with a title derived from a devisee. Although at common law an administrator had no power to assent, under the Act an administrator *cum testamento annexo* was in the same position as an executor, i.e., he could assent to a devise.

Changes made in 1925

The range of assents was much broadened by the Administration of Estates Act, 1925. The language of s. 36 (1) will presently be considered, but first it is desirable to take a quick look at other changes. Before 1926 an assent was merely a link in the process of devolution, signifying that the property was not needed for discharge of liabilities (see *Attenborough* v. *Solomon* [1913] A.C. 76). The executor withdrew his arresting hand from the subject-matter, which passed to the devisee by force of the will itself. Now, by s. 36 (2), "the assent shall operate to vest . . . the estate or interest to which the assent relates, and, unless a contrary intention appears . . . shall relate back to the death of the deceased." The assent has become a new form of conveyance, but normally retains its ancient retroactive effect. Another change was the imposition of formal requirements on assents relating to the legal estate. By s. 36 (4) "an assent to the vesting of a legal estate shall be in writing, signed by the personal representative, and shall name the person in whose favour it is given and shall operate to vest in that person the legal estate to which it relates; and an assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate." The doctrine of oral and implied assents, an old grievance in dealings with leaseholds which extended to freeholds after 1897, will now seldom trouble conveyancers concerned with legal estates. Where, however, the representative is himself absolute devisee or trustee the omission of writing does not disable him from having the legal estate in his new character. This may happen either by implied assent or by completion of the administration. There is no need to "pass" the legal estate which he already has (see Williams on the Law Relating to Assents, pp. 116–21, discussing *Re Hodge; Hodge* v. *Griffiths* [1940] Ch. 260, and *Harris* v. *Harris* [1942] L.J.N.C.C.R. 119). Under the Settled Land Act, 1925, the provisions for vesting assents necessitated special requirements, namely, the like statements and particulars as in a vesting deed (s. 8 (4) (*b*)). Compliance hangs a "curtain" which may be thin or thick (cf. the Administration of Estates Act, s. 36 (7), and *Re Duce & Boots Cash Chemists (Southern), Ltd.'s Contract* [1937] Ch. 642, with the Settled Land Act, s. 110 (2)). Incidental provisions were made for implied covenants by the representative (subs. (3)); indorsement on probate (subs. (5)); preservation of right of recovery (subs. (9)); power to require security for discharge of duties, etc. (subs. (10); freedom from stamp duty merely by operation of the section (subs. (11)). Assents within the section are competent to executors and administrators.

In whose favour an assent may be made

By s. 36 (1) "a personal representative may assent to the vesting, in any person who (whether by devise, bequest, devolution, appropriation or otherwise) may be entitled thereto, either beneficially or as a trustee or personal representative, of any estate or interest in real estate to which the testator or intestate was entitled or over which he exercised a general power of appointment by his will, including the statutory power to dispose of entailed interests, and which devolved upon the personal representative." It will be convenient to consider first the *terminus ad quem*, so to speak, of an assent. A tempting generalisation is that s. 36 (1) enables an assent to be made in every case except where a representative is carrying out a contract of sale, etc., made by him. In *G. H. R. Co., Ltd.* v. *Inland Revenue Commissioners* [1943] 1 K.B. 303, a vendor died before conveyance and his executor assented in favour of the purchaser. The court assumed the effectiveness of the assent, while holding ad valorem stamp duty to be payable. The assumption made by the court is approved by Williams (op. cit., p. 14, *n.* (*b*)). The suggested generalisation seems to be supported by Wolstenholme and Cherry (12th ed., vol. 2, p. 1469), commenting on the words "or otherwise"—"e.g., under dispositions by the devisees or legatees or by appointment. *It is immaterial how the equitable title arose . . .*" (The italics are the writer's.) An opinion to the contrary is expressed by Williams (op. cit., p. 14) on the ground that the occasions for an assent enumerated by subs. (1) constitute a genus of administrative purposes within which the pursuance of a disposition by a devisee may not be brought by the words "or otherwise." The writer respectfully prefers the former opinion.

No assent of a legal estate acquired *post mortem*?

In the language of subs. (1) there are two restrictive expressions concerned with the *terminus a quo* of the subject-matter. The first is: "to which the testator or intestate was entitled." The second is: "and which devolved upon the personal representative." Wolstenholme and Cherry (loc. cit.) comments: "A representative by an assent can only transfer the estate or interest which devolved upon him; he cannot transfer what he has not got, nor, *semble*, what he acquires by a conveyance after the death . . ." This point has come before the court in *Re Stirrup's Contract, supra*. A testator died in 1908, devising his freehold house to Jane for life and thereafter to Hannah absolutely. Hannah died in 1925, having appointed Stirrup and Evans her executors. Jane died in 1930, having appointed Stirrup her executor. In 1932, Stirrup conveyed to himself and Evans on the trusts of Hannah's will, but recitals in a legal charge executed in 1932 showed that they held as her representatives and not as trustees, for administration was not complete. Stirrup died in 1943. Evans appointed the National Provincial Bank his executor and died in 1957. In 1958, the bank, as Hannah's executor by representation, executed a self-styled assent under seal, reciting the foregoing facts and instruments, in favour of Ruth Jones, the devisee under Hannah's will. Her successor in title contracted to sell, the abstract of title to begin with the legal charge. She applied for a declaration

that she had shown a good title. Both counsel and Wilberforce, J., assumed that the so-called assent was not valid as such: "It has been said, and not disputed . . . that in view of the wording of s. 36 (1) it was not possible for the bank to execute an assent because the property had not devolved upon it as personal representative, but had been conveyed to its predecessors . . . after the death of their testator . . . . Thus it is common ground that the mechanism of an assent was not available to the bank and that the document that should have been used . . . was a conveyance."

Suppose Stirrup had made an assent instead of a conveyance to Hannah's executors, would that have made any difference? It is submitted that the answer must be No. Their entitlement was in virtue of Hannah's right which had devolved on them, but the mere choice of an assent, instead of a conveyance, to pass the legal estate to the representatives of another *propositus*, can make no material difference when the question being considered is devolution from the latter *propositus*. If the view assumed in *Re Stirrup's Contract* is right, no matter by what method the legal estate is acquired by the representatives they cannot make it the subject of an assent. In other words, a legal estate acquired *post mortem propositi* must be transferred by an ordinary conveyance. Still, the availability of so useful, simple and flexible an instrument should not be restricted without cogent reasons. The writer finds a grain of comfort in the "*semble*" qualifying the opinion of Wolstenholme and Cherry, cited *supra*. It is submitted that the opinion quoted is not a necessary interpretation of subs. (1) and that a reasonable argument may be sustained against the dominant view.

The expression "to which the testator or intestate was entitled" is no obstacle. Representatives who purport to assent in respect of an after-acquired legal estate are assenting in respect of an estate to which the deceased was entitled, even if, when he died, his right to have the legal estate had not vested in possession because of the subsistence of a life interest. (Cf. the breadth of the word "entitled" in the earlier part of the subsection and see the wide definition of "real estate," *infra*.) The rub is with the second expression, "and which devolved upon the personal representative." These words could mean quite simply (i) that an estate or interest no more extensive in *quantum* than has *devolved* on the representative may be made the subject of an assent, so that, the estate being the same in extent, representatives who have merely got in the legal estate are not disabled from making an assent in respect of both the legal and equitable estate; (ii) that the representative who purports to assent is the representative concerned with the particular subject-matter (for he may be a general or a special representative, or an executor's administrator). The writer does not press this view but offers it as being reasonably tenable. Naturally, practitioners will act from prudential motives on the narrower opinion.

Must the deceased have been beneficially entitled?

Emmet on Title (14th ed., vol. 2, p. 470), discusses a suggestion that "entitled" in the expression "to which the testator or intestate was entitled" means "beneficially entitled," and that the representative of a sole or last surviving trustee must therefore use an ordinary conveyance to transfer the land to the new trustees or person absolutely entitled, as the case may be. Common practice seems to disregard the suggestion. As Emmet (loc. cit.) points out, "the subsection earlier mentions an assent in favour of a 'person entitled thereto, either beneficially *or as a trustee*.' Consequently the suggestion would appear mistaken, as the word 'entitled' would not be used in two different senses in one subsection."

"Real estate"

"Real estate" in s. 36 (1) means real estate, including chattels real, which by virtue of Pt. I of the Act devolves on the representative (s. 55 (1) (xix)). By s. 3 it includes (i) chattels real, and land in possession, remainder, or reversion, and every interest in or over land to which a deceased person was entitled at the time of his death; and (ii) real estate held on trust (including settled land) or by way of mortgage or security, but not money to arise under a trust for sale of land, nor money secured or charged on land. Executors could assent outside the section to bequests of proceeds of sale, but administrators have no such power. Either may assent to the vesting of equitable interests in real estate as defined, for s. 36 (1) is quite general. The interest of a tenant in common, not ceasing on his death, will pass to his representative, who, if he is an executor, has a common-law power of assent. But in all cases *where the representatives have the legal estate* assent to the vesting of equitable interests would be superfluous, because these are enforceable against the estate owner or owners in whose favour an assent will be made under s. 36 (4), *supra*: this assent in the case of land within the Settled Land Act must be a vesting assent complying with s. 8 (4) (*b*) of that Act. An assent may be made by an executor under his common-law power to a legacy of a mortgage debt and the security may be made the subject of an assent under the section, but it is more convenient always to transfer the mortgage in the statutory form (see Law of Property Act, 1925, Sched. III, Form No. 1).

The beatitude of sealing

It is necessary to return to *Re Stirrup's Contract* for a brief statement of the actual decision, which is of general interest. There, by foresight, force of habit or good fortune, the instrument which was deemed to be no assent had in fact been made under seal. Wilberforce, J., quoted Lord Mansfield, C.J., in *Goodtitle d. Edwards* v. *Bailey* (1777), 2 Cowp. 597: "The rules laid down in respect of the construction of deeds are founded in law, reason, and common sense: that they shall operate according to the intention of the parties, if by law they may: and if they cannot operate in one form, they shall operate in that, which by law will effectuate the intention." He relied on the Law of Property Act, ss. 52 (1), 63 (1) and 205 (1) (ii), and observed that "on the broad framework of the Act the position is established that provided the sole formal requirement of being under seal is complied with . . . any document is effective to pass a legal estate provided that the intention so to pass it can be ascertained." Once more the potency of a seal has been impressively demonstrated: *sigillantibus subvenit lex*. It was also ruled that, the vendor having shown seisin and ability to pass the fee simple without any blot or possibility of litigation, the particular form, name or description of the document was in law immaterial to the purchaser.

F. W. TAYLOR.

Wills and Bequests

Mr. LANCELOT SALKELD CHARLTON, solicitor, of Selby, Yorks, left £21,846 net.

Mr. SPENSER WILLAN JACKSON, solicitor, of Wellingborough, Northants, left £56,956 net.

Landlord and Tenant Notebook

SECOND THOUGHTS ABOUT ALLEGED BUSINESS TENANCY

It was demonstrated by *Bagettes, Ltd.* v. *G.P. Estates, Ltd.* [1956] Ch. 290 (C.A.), that Pt. II of the Landlord and Tenant Act, 1954, does not entitle the lessee of an ordinary block of flats to a new tenancy: he lets the flats and for that very reason does not occupy them. In *Narcissi* v. *Wolfe* [1960] Ch. 10, the same reasoning was applied in the case of flats above a restaurant which were sub-let furnished, though Roxburgh, J., preferred to attribute his finding to common sense. And this despite Denning, L.J.'s reminder, in *Hills (Patents), Ltd.* v. *University College Board of Governors* [1956] 1 Q.B. 90 (C.A.), that possession in law is single and exclusive, but occupation may be shared with others or had on behalf of others.

The terms of the furnished tenancies dealt with in *Narcissi* v. *Wolfe* gave the mesne landlord a right of entry for the purposes of inspection or changing the furniture, and this, by implication, would justify a finding that he did not occupy the flats. But there is, as Roxburgh, J., also said, a lot of law about the word "occupied"; and not only the law of landlord and tenant, but election law and rating law and poor law, have produced numbers of authorities illustrating the often fine distinction between a tenancy and a licence.

Tenancy or licence

The interlocutory proceedings which were the subject of *Da Costa* v. *Chartered Society of Queen Square* (1961), 179 E.G. 447 (C.A.), were the result of failure to appreciate the importance of the said distinction. The tenant concerned held a lease of a house consisting of fifteen or sixteen rooms. A restrictive covenant limited her to "sub-letting one or more rooms to respectable persons for residential purposes only, whether or not provision of meals or any other service is undertaken by the tenant for the occupants of the rooms and whether in a common dining-room or otherwise." When the term was drawing to its close, it does not appear to have occurred to either party that Pt. II of the Landlord and Tenant Act, 1954, would not entitle her to claim a new lease. The landlords served a notice to terminate saying that they would not oppose an application (s. 25 (6)) and the tenant's solicitors served a counter-notice saying that she was not willing to give up possession (s. 25 (5)) and was willing to negotiate a new tenancy. Then, when her originating application was filed pursuant to the County Court Rules, 1936, Ord. 40, r. 8 (1), the statement required under para. 2 (*g*) in Form 335—Nature of the business carried on by the tenant in the premises—was made "Sub-letting rooms for residential purposes (hotel)."

A request for further particulars then produced the information that the tenant had sub-let a basement room to one *C* for the last nine years, and a top floor room to one *G* for six years; the others, it was said, were used for her boarding-house business, there being a dining-room, lounge and other common rooms.

Jurisdiction

The landlords then realised that *Bagettes, Ltd.* v. *G.P. Estates, Ltd.*, might support the proposition that the property comprised in the tenancy was not, nor did it include, in the words of the opening provision of Pt. II (s. 23 (1)), premises which were occupied by the tenant and so occupied for the purposes of a business carried on by her or for those and other purposes. When filing their answer to originating application (Ord. 40, r. 8: Form 336) they intimated that they would take the point that the court had no jurisdiction. They did so by devising an introductory paragraph saying that the Act did not apply, proceeding "Alternatively . . ."

Thereupon the tenant asked leave to amend her originating application by substituting "granting licences," making the business a "hotel business," and deleting the references to sub-lettings to *C* and *G*. The county court judge allowed the amendment, and the appeal was against his so doing.

Remedies

As far as merits were concerned, the Court of Appeal considered that the landlords' shifting of their ground virtually entitled the tenant to amend *ex debito justitiæ*. On the technical side it was pointed out that the forms were not designed to enable anyone to raise the question of jurisdiction: the landlords could have brought a simple action for possession, or could raise the matter by seeking a writ of prohibition or of certiorari. As things had gone, the tenant was entitled to say: "I did not bother about whether the right description in law was sub-letting or carrying on a boarding-house, but now he says that the court has no power to grant a new lease I want to state what I believe to be the facts more accurately."

Control

The outcome may have been that the tenant established her right to a new tenancy of the building less the rooms occupied by Messrs. *C* and *G*: the Act provides for a new tenancy of "the holding," which means the property comprised but excluding any part not occupied by the tenant or an employee for the purposes of the business (s. 23 (3)), while entitling the landlord to insist on such part being included, at his option (s. 32). But the decision calls attention to the added importance of the distinction between tenants and licensees. For centuries text-books have been content to speak of residential licensees as "lodgers"; modern conditions have produced relationships which are not so easily classified. The vital consideration is that of control exercised by the grantor; this was pointed out by Jessel, M.R., in his judgment in *Bradley* v. *Baylis* (1881), 8 Q.B.D. 195 (C.A.), in which he found himself "quite unable to frame an exhaustive definition," as did Romer, L.J., in *Kent* v. *Fittall* [1906] 1 K.B. 60 (C.A.). Besides hotels and boarding-houses—the terms used in *Da Costa* v. *Chartered Society of Queen Square, supra*—we now come across residential chambers and flatlet houses; besides tenants and lodgers, we have boarders and guests and paying guests. At one point in the recent case the occupants of the house were described—for forensic purposes—as having a "licence to sleep." The expression reminds one of the "twopenny rope" so vividly described by Sam Weller in the Pickwick Papers. The users' rudely interrupted dreams are hardly likely to have included any in which the sleeper saw himself as the grantee of an estate in land.

R. B.

IN THE MATTER OF WAITING ROOMS

We all spend part of our life in waiting rooms of one sort and another. There are some people who, in this respect, log longer periods, in the aggregate, than others. Few of us escape the trying and sometimes tense minutes endured in the waiting rooms of doctors and dentists, with their gay selection of glossy magazines, calculated to take one's mind off the real business in hand.

There is the time ticked off in railway, bus and airport waiting rooms, hours not wasted to those interested in the comings and goings of their fellow travellers. People are always more interesting than things, even when they are the latest jet airliner or diesel or electric train.

There are the occasions, either exhilarating or depressing, according to one's temperament, waiting to be called for interview in connection with the post for which we are applicants.

Charles Dickens, always ready to indulge his wit at the expense of lawyers and their offices, waxed humorous in "A Tale of Two Cities" about the incommodious waiting room, not of a law firm on this occasion, but of Tellson's Bank by Temple Bar in the year 1780. "After bursting open a door of idiotic obstinacy with a weak rattle in its throat, you fell into Tellson's down two steps, with two little counters, where the oldest of men made your cheque shake as if the wind rustled it, while they examined the signature by the dingiest of windows, which were always under a shower-bath of mud from Fleet-street, and which were made the dingier by their own iron bars proper, and the heavy shadow of Temple Bar. If your business necessitated your seeing 'the House,' you were put into a species of Condemned Hold at the back, where you meditated on a mis-spent life, until the House came with its hands in its pockets, and you could hardly blink at it in the dismal twilight."

Then there are the juridical waiting rooms, solicitors' in particular. "There is no sadder place," wrote Anthony Trollope, "than the waiting room of a London attorney." Such places cover a wide range of specification. No doubt Trollope was thinking of those faded rooms, to be found in the provinces as well as in the Metropolis, whose browning walls are hung with posters of the same hue, once black and white, announcing auction sales of property and chattels long since held (and the chattels probably worn out and discarded), and an old-fashioned enlargement of the firm's bewhiskered founder, deceased these many years, rooms covered with well-worn carpet, rooms in which hangs heavily a funereal air, where it seems out of place even to cough.

At the other end of the scale, there is the lawyer's modern air-conditioned, pastel-shade, beflowered waiting room, with its current copies of *The Times*, the *Financial Times*, the *New Yorker* (clients of this office understand better the American journal's jokes than they do those in its British equivalent, *Punch*) and other periodicals of quality, lying upon the highly polished table top.

This is the kind of office that is a rebuttal of the condemnation passed by Sir Arthur Helps: "I do not know a sadder portion of a man's existence, one more likely to be full of impatient sorrow, than that which he spends in waiting at the offices of lawyers."

In his "Confessions of an Un-Common Attorney," Reginald L. Hine, former Hitchin solicitor, dealing with waiting rooms and waiting clients, said of his firm's: "In our office we do what we can to mitigate the lot of clients by providing a collection of etchings, water-colours and works on local history. We hope they may catch sight of the couplets scribbled by us on the fly-leaves of the books they read. On the half-title of 'The Story of Hitchin Town' it is written:—

> Patience, good client, nor will your wait seem ages,
> If you but dip into these tempting pages.

This word in season appears in the 'Official Guide to Hitchin':—

> Whilst you are waiting for that ass the law,
> Why not of Hitchin learn a little more?

'If we are likely to keep you long,' it is advised in 'A Short History of St. Mary's' (Hitchin's parish church), 'then slip off for five minutes into the parish church. It will do you good, and you'll come back in a better frame of mind.'"

It is wrong, of course, to generalise in this matter of waiting rooms and to say that the old-fashioned, long-established country conveyancing firm provides inferior accommodation for waiting clients compared with that found in the offices of up-to-date, up-and-coming common-law and commercial practices. One of the most pleasant waiting rooms the writer recalls belonged to a firm of the former category. It had an Adam fireplace, a fine specimen of a palm filling the large window overlooking the main street, four-foot high bookcases around two sides of the room, an attractive selection of *Spy* drawings adorning the walls and a large oak table and matching chairs, the whole creating an air of dignity and restfulness, so that clients expected an extra guinea or so to be added to their bills, which, no doubt, they paid without demur.

Perhaps it is true to say that some evidence of the character of a legal firm is to be found in the kind of waiting room that they provide for the convenience of their clients. It may be possible to sense in the waiting room the type of solicitor to be met in a matter of minutes and to get some idea of whether he is likely to resemble the lawyer *par excellence* characterised in "The Compleat Solicitor" (1669). Here are enumerated "the Qualities wherewith a Solicitor ought to be endued to make him Compleat":—

> "First, he ought to have a good natural wit.
>
> Secondly, that wit must be refined by education.
>
> Thirdly, that education must be perfected by learning and experience.
>
> Fourthly, and lest learning should too much elate him, it must be balanced by discretion.
>
> Fifthly, to manifest all these former parts, it is requisite that he have a voluble and free tongue to utter and declare his conceipts."

We live in days when the profession concerns itself with questions like: "How can solicitors convey to the public a better image of the legal profession?"—the topic of a discussion which took place at this year's conference of The Law Society. Sir Denys Hicks, then president of The Law Society, was worried about the same theme. He has written the foreword to the new book, "Services of a Solicitor," by Mr. H. J. B. Cockshutt. Sir Denys says: "The solicitor is an easily accessible and approachable person, well fitted by his training, experience and tradition to serve the public as guide, philosopher and friend in almost every field of human relations and endeavour."

In dealing with the problem of the public image, perhaps a start might profitably be made by promoting a Brighter Waiting Rooms campaign. This room usually creates the

first, and sometimes lasting, impression that the client receives, after the impression which is made by the kind of reception he gets once through the street door. It is in the waiting room where he sits nursing his problem. Ought we not to call in the specialists to give us ideas on design, lighting, furnishing and the like for this most important of rooms? The profession could do worse than take such a step.

After all, the banks, building societies and large commercial houses are alive to the need of what the publicity people call a "modern presentation." As the law does not advertise, the next best thing in presenting a favourable image, so it would appear, is for lawyers' accommodation, especially the waiting room, to be attractive, creating the impression of a vital, living organisation, from which the traditional dust has long since been removed.

The practice of the law, lawyers and their offices, are subjects that have interested artists down the ages. Apart from the old masters' paintings of the lawyers of Biblical times, one recalls the picture *A Lawyer's Office in* 1515, by Peter Breughel. This delightful painting portrays country clients offering their solicitor well-fed poultry, grapes and eggs in plenty. Standing in the background unattended, and looking mildly embarrassed, is the client who forgot to bring any offering-in-kind. There is also the engraving by Crispin de Passe, *The Making of the Will.*

Coming to more recent times, Fred Elwell, R.A., has executed two works with legal themes, *Reading the Will* and *A Visit to the Lawyer*, the former depicting the assembled family listening to the recital of testamentary dispositions and the latter presenting a family in distress. When it is remembered that all sorts of people in all sorts of circumstances and with all sorts of problems find their way into lawyers' waiting rooms, it behoves the profession to use imagination in furnishing these places, so that waiting rooms, as surely as the advice that the practitioner will give, are a source of help to people who need it and are prepared to pay for it.

It is true that in the long run the client will be most impressed—and his business retained—because of the treatment his problem receives. He is not likely to take his work to the lawyer who, whatever the kind of waiting room he has, indifferently handles the matter. The client, like the patient who changes his doctor because of what he considers to be careless treatment in the vital matter of his health, will go elsewhere to be legally represented. Other things being equal, the client is likely to prefer employing the lawyer with modern, imaginative ideas in accommodation, including waiting rooms.

Moreover, the clients of tomorrow are today's young people, brought up in a world of progress at a remarkable rate, with a modern expression in design and the furnishing of accommodation. They look for this everywhere. They are likely to look for it in the offices of the solicitors to whom they are to entrust their business.

As long as Anthony Trollope's dictum about there being no sadder place than the London attorney's waiting room remains true, then the public image projected by lawyers will remain falsified. It is a challenge to the profession. One wonders whether anything is being done to meet it.

W. A. G.

HERE AND THERE

URGE TO ESCAPE

THE curious current concentration on "space fiction" is, I suppose, only the latest manifestation of the enduring human yearning to escape. "Stop the World; I Want to Get Off" (to borrow the title of a London show) is a cry which has recurringly risen unbidden to the lips of mankind. As this world shrinks and its population spreads, the sole escape is towards the stars. But those of us who have not a head for heights or a taste for spacecraft still look mentally east or west to some solitary island or some pleasant land to which we may flee (not fly) to live happily ever after with some gay, exulting, gentle race, untouched and unsophisticated. If one sufficiently ignores the scientific and political facts of what is going on in the rest of the world and only looks at the coloured pictures in the *National Geographic Magazine*, one can still hope to find such a place. Dreamers who yearn for the sun and variegated colour tend to turn their faces to the East. Some company of dancers from the Philippines or from Malaya performs in London. Against backgrounds of infinite variety lovely girls of unbelievable simplicity and liveliness and natural good humour move with a grace unknown in the west, and one says to oneself: "Ah, with such a wife in such a place one would find at last the fullness of happiness."

MARRIAGE IN MALAYA

BUT it does not need the complexities of scientific civilisation to give the lie to such illusions. Human nature, since the fall of Adam and Eve, has been quite equal to dissipating them by its own unaided perversity. One knows that, but a recent decision of a judge at Kuala Lumpur unpleasantly underlines our knowledge and even goes beyond our subconscious fears. Judges in England have granted a husband relief from the cruelty of a nagging wife, but here is a judge in Malaya dismissing a petition for divorce presented by an undertaker called Kwee Seong based on the ground of mental cruelty by nagging, and the *ratio decidendi* of the case is that "a wife is entitled to nag; it is the favourite habit of women." So the unhappy husband in the case has no resort left except to lie down in one of his own coffins, close the lid and compose himself to eternal rest, provided the receptacle is sound-proof.

QUESTIONABLE IMPLICATIONS

ONE would very much like to see the full text of the judgment, for in its abbreviated rendering it is hard to determine which great class of the community will be most dissatisfied with its implications. Husbands will feel that here is a direct encouragement to an insidious war of attrition between the sexes, a war literally to the death or to unconditional surrender. But will the women be pleased with the judgment? One very much doubts it. However satisfactory the decision may be as a tactical victory, its far-reaching implications and its reasoning will be taken as amounting almost to a calculated affront to the female sex. Women like to cherish or, anyhow, to encourage a vision of themselves as gentle, loving and (save under exceptional provocation) mild—either that, or far too sensible and independent to employ such an antiquated weapon as nagging. To suggest that the court must take judicial notice of it as their favourite habit and indulge them accordingly is little better than

classifying them as one of the nuisances which are in the order of nature like barking dogs. One might even suggest that it would be the duty of whatever official in Malaya performs the functions of the Queen's Proctor here to appeal against a decision which might be said to be contrary to public policy as a direct discouragement to matrimony. At least there should be a new trial, for if such a finding is to become finally enshrined in the treasure-house of legal wisdom, it should not be without the fullest examination of expert evidence, since the true nature of the female tongue in law is at least as important as, say, the question whether or not a camel is an animal *ferae naturae* and it should be determined with at least as much deliberation. One could almost wish that the case should come up to the Judicial Committee of the Privy Council. Whatever the ultimate decision there on the particular case, the advice which their lordships would humbly tender to Her Majesty could scarcely uphold the judge's *ratio*.

RICHARD ROE.

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

QUESTIONS

COURT OF PROTECTION FEES

The LORD CHANCELLOR said that the Court of Protection Rules, 1960, which governed the imposition of the fees payable in respect of the administration of patients' estates, gave the court power to remit or postpone the payment of the whole or part of any fee where hardship might otherwise be caused to the patient or his dependants, or the circumstances were otherwise exceptional, and this power was freely used in suitable cases.

[3rd August.

HOUSE OF COMMONS

CONTRACT AND THE COMMON MARKET

The ATTORNEY-GENERAL said that he was not aware of any anxiety in the business community as to the effects on the British law of contracts of Great Britain's entry into the Common Market, and he declined to consult the Bar Council or The Law Society or to issue a White Paper on the subject.

[3rd August.

STATUTORY INSTRUMENTS

Bradford Water (Grimwith Reservoir) Order, 1961. (S.I. 1961 No. 1489.) 5d.

British Protectorates (Geneva Conventions) (Amendment) Order in Council, 1961. (S.I. 1961 No. 1500.) 4d.

Carmarthen Rural Water Order, 1961 (S.I. 1961 No. 1442.) 5d.

Colne Valley Water Order, 1961. (S.I. 1961 No. 1464.) 8d.

Copyright (International Conventions) (Amendment) Order, 1961. (S.I. 1961 No. 1496.) 5d.

Cotton Doubling Reorganisation Scheme No. 2 (Confirmation) Order, 1961. (S.I. 1961 No. 1484.) 5d.

Cotton Finishing (Woven Cloth) Reorganisation Scheme No. 2 (Confirmation) Order, 1961. (S.I. 1961 No. 1485.) 5d.

Cotton Finishing (Yarn Processing) Reorganisation Scheme No. 2 (Confirmation) Order, 1961. (S.I. 1961 No. 1486.) 5d.

Cotton Spinning Reorganisation Scheme No. 2 (Confirmation) Order, 1961. (S.I. 1961 No. 1487.) 5d.

Cotton Weaving Reorganisation Scheme No. 2 (Confirmation) Order, 1961. (S.I. 1961 No. 1488.) 5d.

Department of Technical Co-operation Order, 1961. (S.I. 1961 No. 1501.) 5d.

Diplomatic Immunities (Conferences) (Cyprus) Order, 1961. (S.I. 1961 No. 1508.) 4d.

This order adds Cyprus to the countries included in the Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act, 1961, under which diplomatic immunity may be conferred on Commonwealth representatives, and their staffs, attending governmental conferences.

East Africa (High Commission) (Amendment) Order in Council, 1961. (S.I. 1961 No. 1502.) 5d.

Enrolled Nurses Rules, Approval Instrument, 1961. (S.I. 1961 No. 1519.) 1s. 2d.

Exchequer Advances (Limit) (No. 2) Order, 1961. (S.I. 1961 No. 1471.) 4d.

Foreign Service Fees (Amendment) (No. 3) Order, 1961. (S.I. 1961 No. 1510.) 4d.

Insurance Contracts (War Settlement) (Germany) Order, 1961. (S.I. 1961 No. 1497.) 6d.

Ionising Radiations (Sealed Sources) Regulations, 1961. 1961 No. 1470.) 11d.

These regulations impose requirements for the protection of persons employed in factories and other places to which the Factories Act, 1937, applies, against ionising radiations arising from (*a*) sealed sources ; and (*b*) machines or apparatus intended to produce ionising radiations or in which charged particles are accelerated by a voltage of not less than five kilovolts.

London Traffic (Prescribed Routes) (Ilford) (No. 2) Regulations, 1961. (S.I. 1961 No. 1434.) 4d.

London Traffic (Prescribed Routes) (Islington and St. Pancras) Regulations, 1961. (S.I. 1961 No. 1516.) 5d.

London Traffic (Prescribed Routes) (Wandsworth) (No. 2) Regulations, 1961. (S.I. 1961 No. 1456.) 4d.

Merchandise Marks (Imported Goods) (No. 4) Order, 1928, Amendment Order, 1961. (S.I. 1961 No. 1498.) 5d.

Merchant Shipping (Confirmation of Legislation) (Federation of Rhodesia and Nyasaland) Order, 1961. (S.I. 1961 No. 1509.) 4d.

Merchant Shipping (Registration of Ships) (Highlands and Islands Shipping Services) Order, 1961. (S.I. 1961 No. 1514.) 5d.

Motor Vehicles (Third Party Risks) Regulations, 1961. (S.I. 1961 No. 1465.) 8d.

Movement of Animals (Records) Amendment Order, 1961. (S.I. 1961 No. 1493.) 5d.

North Orbital Trunk Road (Sections at Abbots Langley and St. Albans in the County of Hertford) Order, 1961. (S.I. 1961 No. 1466.) 5d.

Northern Rhodesia (Native Reserves) (Amendment) Order in Council, 1961. (S.I. 1961 No. 1503.) 5d.

Nurses Rules, Approval Instrument, 1961. (S.I. 1961 No. 1520.) 1s. 5d.

Overseas Service Superannuation Order, 1961. (S.I. 1961 No. 1494.) 11d.

Patents (Fees Amendment) Order, 1961. (S.I. 1961 No. 1499.) 5d.

This order increases the maximum fees specified in Sched. I to the Patents Act, 1949, except those on application for a patent and on renewal in respect of the eleventh year of a patent.

Removal of Vehicles (Scotland) Regulations, 1961. (S.I. 1961 No. 1473 (S. 89).) 6d.

River Purification Authority (Commencement No. 12) Order, 1961. (S.I. 1961 No. 1492 (C. 11) (S. 91).) 5d.

Savings Certificates (Amendment) Regulations, 1961. (S.I. 1961 No. 1528.) 5d.

Sevenoaks Rural District (Advance Payments for Street Works) Order, 1961. (S.I. 1961 No. 1463.) 4d.

Southern Cameroons (Constitution) (Amendment No. 2) Order in Council, 1961. (S.I. 1961 No. 1504.) 5d.

Stopping up of Highways Orders, 1961 :—

County of Berks (No. 6). (S.I. 1961 No. 1446.) 5d.

City and County of Bristol (No. 7). (S.I. 1961 No. 1447.) 5d.

County of Chester (No. 14). (S.I. 1961 No. 1450.) 5d.

County of Chester (No. 21) Order, 1957 (Amendment). (S.I. 1961 No. 1495.) 5d.

County of Cumberland (No. 6). (S.I. 1961 No. 1467.) 5d.

County of Derby (No. 13) Order, 1959 (Amendment). (S.I. 1961 No. 1481.) 4d.

County of Durham (No. 11). (S.I. 1961 No. 1451.) 5d.

County of Gloucester (No. 8). (S.I. 1961 No. 1445.) 5d.

County of Huntingdon (No. 1). (S.I. 1961 No. 1474.) 5d.

County of Huntingdon (No. 2). (S.I. 1961 No. 1475.) 5d.

County of Huntingdon (No. 3). (S.I. 1961 No. 1476.) 5d.

County of Kent (No. 13). (S.I. 1961 No. 1448.) 5d.

County of Lancaster (No. 28). (S.I. 1961 No. 1452.) 5d.

City and County Borough of Liverpool (No. 9). (S.I. 1961 No. 1453.) 5d.

London (No. 8). (S.I. 1961 No. 1477.) 5d.

London (No. 30). (S.I. 1961 No. 1449.) 5d.

London (No. 32). (S.I. 1961 No. 1478.) 5d.

County of Norfolk (No. 3). (S.I. 1961 No. 1479.) 5d.

County of Surrey (No. 6). (S.I. 1961 No. 1480.) 5d.

Swansea–Manchester Trunk Road (Watling Street and Other Roads, Hartford) Order, 1961. (S.I. 1961 No. 1423.) 5d.

Temporary Importation (Commercial Vehicles and Aircraft) Regulations, 1961. (S.I. 1961 No. 1523.) 6d.

Temporary Importation (Hired Vehicles) Regulations, 1961. (S.I. 1961 No. 1524.) 5d.

Temporary Importation (Private Vehicles, Vessels and Aircraft) Regulations, 1961. (S.I. 1961 No. 1525.) 6d.

Tonga (Amendment) Order in Council, 1961. (S.I. 1961 No. 1505.) 6d.

Treasury (Loans to Local Authorities) (Interest) (No. 2) Minute, 1961. (S.I. 1961 No. 1521.) 5d.

Treasury (Loans to Persons Other than Local Authorities) (Interest) (No. 2) Minute, 1961. (S.I. 1961 No. 1522.) 5d.

Visiting Forces (Application of Law) Order, 1961. (S.I. 1961 No. 1512.) 5d.

Visiting Forces (Designation) Order, 1961. (S.I. 1961 No. 1511.) 4d.

Western Pacific (Courts) Order in Council, 1961. (S.I. 1961 No. 1506.) 11d.

Worthing Water (No. 2) Order, 1961. (S.I. 1961 No. 1472.) 5d.

Zanzibar Order in Council, 1961. (S.I. 1961 No. 1507.) 5d.

SELECTED APPOINTED DAYS

August

11th — Building Society (Amendment) Rules, 1960. (S.I. 1960 No. 1237.)

13th — Wages Regulation (Licensed Non-residential Establishment) Order, 1961. (S.I. 1961 No. 1347.)

15th — Ionising Radiations (Sealed Sources) Regulations, 1961. (S.I. 1961 No. 1470.)

19th — Consumer Protection Act, 1961.
Flood Prevention (Scotland) Act, 1961.
Public Authorities (Allowances) Act, 1961, ss. 1, 2, 3, 7, 8 and 9.

21st — Motor Vehicles (Third Party Risks) Regulations, 1961. (S.I. 1961 No. 1465.)

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Llanfair P.G. and All That

Sir,—Article "Over to You," at p. 662, in your issue of 4th August.

On returning from a few days' holiday in a place the English, for some reason best known to themselves, spell as "London," and pronounce as "Lundun," I reached for my SOLICITORS' JOURNAL and read the above article.

While not a Welsh-speaking Welshman, I have a notion of how to pronounce the place names written in that euphonious Celtic tongue of ancient lineage. But the final consonantal cluster in "Ybswcwmpwllbrch" quite defeats me. The insertion of a "y" after the "r" would make the entire name child's play. Incidentally, I believe "brch" means "neck" in Czech. The name may have been affected by the linguistic habits of Slavonic refugees in the principality, since surely no printer's errors are allowed to occur in your excellent Journal. Or could they?

JOHN K. JONES.

Westbury,
Wiltshire.

BOOKS RECEIVED

Eighth Conference of the International Bar Association, Salzburg, Austria, 4th–8th July, 1960. pp. xviii and (with Index) 626. 1960. The Hague: Martinus Nijkoff—Publisher. Guilders 28.50.

Prison Service Journal. Volume I, No. 3. Edited by M. WINSTON. pp. 68. July, 1961. Wakefield: H.M. Prison Commissioners. 6d. net.

Malaya and Singapore, The Borneo Territories: The Development of their Law and Constitutions. Edited by L. A. SHERIDAN, LL.B., Ph.D. pp. xxii and (with Index) 510. 1961. London: Stevens & Sons, Ltd. £4 4s. net.

The Law of Agency. Second Edition. By RAPHAEL POWELL, D.C.L., of the Middle Temple, Barrister-at-Law. pp. liv and (with Index) 467. 1961. London: Sir Isaac Pitman & Sons, Ltd. £3 net.

A Police Constable's Guide to his Daily Work. Tenth Edition. By C. P. BRUTTON, C.B.E., Clerk of the Peace and Clerk of the Dorset County Council, and Sir HENRY STUDDY, C.B.E., formerly Chief Constable of the West Riding of Yorkshire. pp. x and (with Index) 637. 1961. London: Sir Isaac Pitman & Sons, Ltd. £1 10s. net.

The Encyclopaedia of Court Forms and Precedents in Civil Proceedings. First Edition. Sixteenth Cumulative Supplement. Chief Legal Editor: J. T. EDGERLEY, M.A., of the Inner Temple, Barrister-at-Law. pp. 196, 1653, and (Index) 108. 1961. London: Butterworth & Co. (Publishers), Ltd. £4 10s. net.

Encyclopaedia of Road Traffic Law and Practice. Release No. 3, 1st May, 1961. London: Sweet & Maxwell, Ltd.; Edinburgh: W. Green & Son, Ltd. Service issue.

REVIEWS

The Shops Act, 1950. Fourth Edition. Edited by RODERICK DAVIES. Consulting Editor, G. M. BUTTS. pp. xxiv and (with Index) 275. 1961. London: The Solicitors' Law Stationery Society, Ltd. £2 5s. net.

"Wilkinsons" has been an important work since the publication of the first edition in 1934. The fourth edition, which now makes its appearance, is a larger volume than any of its predecessors but follows the format which we have grown to know and like. The general statement of the law in readable form which forms the first section of the book provides an informative reference for trade associations, for the administrative offices of large retail distributors and, indeed, for any shopkeeper who is anxious to know rather more of the law affecting his shop than is usually the case. The Act is then set out with explanatory notes. This section will appeal to the officer responsible for administering the Act, his advisers and all those who require an intimate knowledge of the subject.

Decisions of the courts of recent years have had an important bearing on the interpretation to be placed on the Act itself. The cases examined and referred to are more exhaustive than those found in any other similar work of reference on the subject. Consideration might, however, be given to including references to *Smith* v. *Freeman, Hardy & Willis, Ltd.* (Queen's Bench Division, 8th October, 1959), and *Smolar* v. *Pritchard* (Queen's Bench Division, 23rd October, 1959); these two cases, whilst in line with other recent decisions, have slight differences which should be borne in mind.

A shift in emphasis which is found in the several pages of notes to s. 74 of the Act will please many and dismay no less a number. These notes contain references to decisions not widely known. The view has been generally held, we believe, that "retail trade or business" is to do mainly with selling to a consumer but some thought must be given to *M. & F. Frawley, Ltd.* v. *Ve-Ri-Best Co., Ltd.* [1953] 1 Q.B. 318, and *Wright* v. *St. Mungo Property Co., Ltd.* (1955), 71 Sh. Ct. Rep. 152 (coupled with the opinion set out at p. 456 of the *Justice of the Peace and Local Government Review*, 29th July, 1961), which imply that many more premises may be shops within the meaning of the Act than have ever been so identified up to the present time.

Comparative tables and a comprehensive index complete the work. Mr. Roderick Davies's collaboration with Mr. G. M. Butts, the editor of the third edition, cannot be other than beneficial, for Mr. Butts has retained a lively interest in this thorny topic. The author is to be congratulated in waiting no longer to see if the law is to be revised, for the recent announcement of the setting up of a committee to inquire into the Sunday laws, including Sunday trading, makes it relatively clear that the book has several years of useful life.

The Judicial Decision. By RICHARD A. WASSERSTROM. pp. (with Index) 197. 1961. London: Oxford University Press; Stanford, California: Stanford University Press. £1 10s. net.

"Towards a theory of legal justification," the sub-title of this abstruse book, indicates two things: first, a consideration of the simple-sounding question how should courts decide cases; and second, a failure to find an answer. The failure, needless to say, is the fault not of the author but of the nature of the question, concerned as it is with finding a procedure satisfactorily justifying decisions in general rather than with satisfactorily reaching a conclusion on a particular set of facts. Opening with a defence of the use of logic or deduction in order to decide cases, the dissertation moves on to a criticism of the two alternative procedures at present found both in systems and in philosophies of law. These two procedures are either *precedent*, the decision of cases exclusively by reference to existing rules, or *equity*, the decision of cases exclusively by reference to justice on the particular facts. (It will be appreciated that here the words "precedent" and "equity" are not used as in the English legal system today.) Naturally, neither of these procedures comes up to scratch and the author is able to propose and describe a so-called "two-level" procedure purporting to be based on the better features of the other two procedures.

Without disrespect, on the one hand, it may be said that this is written for academic lawyers already familiar with the various existing schools of jurisprudential thought and having on tap the concentration necessary to follow a difficult line of thought through equally difficult language. (Are such expressions as "sociological decision process" and "particularistic and non-rational justification" inseparable from American jurisprudential writing?) With respect, on the other hand, it must be said that this reviewer thought the book verbose and unrealistic, though this is only one opinion and others may disagree.

Boland and Sayer's Oaths and Affirmations. Second Edition. By W. J. FELL, Clerk of the Lists, Queen's Bench Division, and A. G. KEATS, Associate, Crown Office and Associates' Department. pp. xx and (with Index) 166. 1961. London: Stevens & Sons, Ltd. £1 5s. net.

This book might well be given the sub-title of "Handbook for Commissioners for Oaths," containing as it does, in convenient pocket size, all that a commissioner for oaths as such needs to know. Method of appointment and powers and duties of commissioners are described and an adequate number of forms for affidavits and exhibits set out in an appendix. Changes of rule and practice since the publication of the first edition in 1953 have been incorporated and include references to the Oaths Act, 1961. In the Preface the authors express the hope that commissioners for oaths, court officials, consular officials and those appointed to take the evidence of witnesses, either in this country or abroad, will find the book of great service. We are sure that their wish will be fulfilled.

Case for the Accused. By JULIAN PRESCOT. pp. 210. 1961. London: Arthur Barker, Ltd. 16s. net.

This book bids fair to provide at least as good reading entertainment as its three predecessors from the same pen. As its title implies, it contains descriptions of various criminal cases handled by its solicitor author. The style holds the reader and the narrative is credible. The book will do nothing to dispel the widespread belief that most of the time of the majority of solicitors is filled by dealing with matters arising from petty crime. However, that will not prevent success in its object to amuse, and solicitors who never prepare prosecutions and defences or act as advocates will be interested to read with so little effort about how the other half lives. We think that the reference on p. 89 to the "new Betting Bill" might have been adapted at proof stage to take cognisance of the passing of the Betting and Gaming Act, 1960, but that is by the way.

The Rule of Law in a Free Society. A report on the International Congress of Jurists, New Delhi, India, 5th to 10th January, 1959. Prepared by NORMAN S. MARSH, M.A., B.C.L., of the Middle Temple, Barrister-at-Law. With a Foreword by JEAN-HAVIEN LALIVE, LL.D., A.M. pp. xi and 340. 1960. Geneva: International Commission of Jurists (from whom it is obtainable).

The main purpose of the Congress in New Delhi, which was attended by a majority of participants from Asian and African countries, was "to clarify and formulate in a manner acceptable to different legal systems, operating in varying political, economic and social environments, the basic elements of the Rule of Law." The report is an absorbing document and it includes the findings of the Congress as to legislative and executive powers, criminal process and the position of the judiciary and legal profession in many countries, including the Soviet Union and the United States, in all parts of the world. If it receives the attention that it deserves, the report could make a valuable contribution towards the "advancement of those principles of justice which constitute the basis of the Rule of Law," the worthy and vitally important task to which the Commission has set its hand.

HOUSE PURCHASE AND HOUSING ACT, 1959

BUILDING SOCIETIES

The Uxbridge Permanent Benefit Building Society has been designated for the purposes of s. 1 of the House Purchase and Housing Act, 1959.

NOTES OF CASES

*These notes are published by arrangement with the Council of Law Reporting. Except in respect of those marked *, full reports of the judgments, revised by the judges, will shortly appear in the Weekly Law Reports.*

Case Editor: J. D. PENNINGTON, Esq., Barrister-at-Law

Judicial Committee of the Privy Council

TRADE UNION: EXPULSION: BREACH OF NATURAL JUSTICE

Annamunthodo *v.* Oilfield Workers' Trade Union

Lord Denning, Lord Morris of Borth-y-Gest, the Rt. Hon. L. M. D. de Silva. 26th July, 1961

Appeal from the Federal Supreme Court of the West Indies.

The appellant was charged before the General Council of his trade union with offences against certain of the union rules. There was no power under those particular rules to expel him, but only to impose a small fine. On his conviction of the offences charged, the General Council purported to expel the appellant under another rule, r. 11 (7), under which he had not been charged, which provided for expulsion where a member had been guilty of "conduct prejudicial to the interests of the union." The appellant had attended before the General Council when the evidence was taken, but, owing to a previous engagement, did not attend the adjourned hearing a week later, when the charges were found proved. His expulsion was upheld on his appeal under r. 11 (7) to the annual conference of delegates, whose decision under the rule was to be "final and binding." His action against the union claiming that his purported expulsion was *ultra vires* and void was dismissed by the trial judge, whose decision was affirmed on 25th January, 1959, by the Federal Supreme Court of the West Indies. The appellant appealed by special leave *in forma pauperis*.

LORD DENNING, giving the judgment, said that r. 11 (7) did not merely empower the General Council to impose more severe penalties for the various other offences specified in the rules, provided that the conduct of which a member was convicted under them was prejudicial to the interests of the union: it created a separate and distinct offence and should not have been invoked for the purpose of expelling the appellant unless he had been given notice of the charge under it and had had a fair opportunity of meeting it. If a domestic tribunal formulated specific charges which led only to a fine, it could not without notice resort to other charges which led to far more serious penalties. When the General Council at the adjourned hearing desired to proceed under r. 11 (7) the hearing should again have been adjourned so as to give the appellant notice of the fresh charge, and by failing so to do the council had not observed the requirements of natural justice. Further, the appellant had not, by appealing to the annual conference of delegates, lost his right to complain of r. 11 (7) being invoked. By having appealed he did not forfeit his right to redress in the courts and could still complain that the original order was invalid for want of the observance of the rules of natural justice. The decision of the General Council convicted the appellant of an offence against the rules with which he had never been charged and must be set aside and the purported expulsion declared invalid. Appeal allowed.

APPEARANCES: *Ralph Millner* (*T. L. Wilson & Co.*); *R. S. Lazarus*, Q.C., and *Dudley Collard* (*Pothecary & Barratt*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law]

House of Lords

EXCESS PROFITS TAX: DEFERRED REPAIRS: RELIEF

***North of Scotland Hydro-Electric Board *v.* Inland Revenue Commissioners**

Lord Reid, Lord Tucker, Lord Keith of Avonholm, Lord Hodson and Lord Guest

13th July, 1961

Appeal from the First Division of the Court of Session, (1960 S.C. 420).

Under the Electricity Act, 1947, the undertakings of two electricity companies were vested in the appellant Board, including an undischarged liability for profits tax by virtue of s. 14 of the Act. Repairs on works of the undertaking had been deferred because of conditions in war-time. After the vesting the Board executed them and claimed the terminal expenses incurred in so doing as a relief under s. 37 of the Act, in computing their liability for excess profits tax. The First Division of the Court of Session having rejected this contention, the Board appealed to the House of Lords. By s. 14 (2) (iii) of the Act the assets and liabilities vesting included "all rights and liabilities . . . in respect of . . . excess profits tax." By s. 14 (7) the Board was to have the same rights, powers, and remedies as the transferred undertaking in enforcing a right as if that right had always been vested in the Board.

LORD REID said that in considering s. 37 of the Act of 1947 one must bear in mind s. 16 (1) of the Finance (No. 2) Act, 1939, which provided that, where there was a change in the persons carrying on a business, then as at the date of the change the business was deemed to have been discontinued and a new business was deemed to have commenced. That meant that the new owner did not become liable to pay tax in respect of a previous period, so it would not be appropriate if he carried out postponed work which would normally have been done before he became owner. But the Act of 1947 changed the scheme of the Finance Acts as regards the compulsory transfer of undertakings which it brought about. Liability in respect of excess profits tax was imposed on the Board. What was the amount of that liability? The Board contended that s. 37 applied so as to reduce their liability by the amount of the cost of the postponed works. The meaning of s. 14 (7) must be that for the purpose of ascertaining the Board's liability the change of ownership must be disregarded and the amount computed as if the Board had been carrying on the undertaking during all the changeable accounting periods. The provisions of s. 37 applied to this case. The appeal should be allowed.

LORD TUCKER, LORD HODSON and LORD GUEST agreed in allowing the appeal.

LORD KEITH dissented.

Appeal allowed.

APPEARANCES: *Alexander Thomson*, Q.C., and *John Allan* (both of the Scottish Bar) (*Sherwood & Co.*, for *Tait & Crichton*, W. S., Edinburgh); *D. C. Anderson*, Q.C., S.-G. for Scotland, *Alan S. Orr* (of the English Bar) and *A. J. Mackenzie Stuart* (of the Scottish Bar) (*Solicitor of Inland Revenue*).

[Reported by F. H. COWPER, Esq., Barrister-at-Law]

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(*Continued on p. xvii*)

Ealing, Ealing Common and District.—JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, adj. Ealing Common Station, W.5. Tel. ACO 5006 (3 lines).

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Court of Appeal

FACTORY: FITTER ALTERING CASTINGS: WHETHER "FETTLING" OF CASTINGS

Prophet *v.* Platt Brothers & Co., Ltd.

Sellers, Harman and Pearson, L.JJ. 14th April, 1961

Appeal from Diplock, J.

The plaintiff was employed by the defendants as a fitter in the assembly of the component parts of textile machinery. In the course of the chipping of a groove into an iron casting for the assembly of two parts in order to make it fit, a piece of metal lodged in his left eye, causing a substantial loss of sight. In an action for damages for breach of the defendants' common-law duty as employers and of their statutory duty under s. 49 of the Factories Act, 1937, and reg. 1 of and the Schedule to the Protection of Eyes Regulations, 1938, it was alleged that the defendants had failed to provide suitable goggles or effective screens to protect the plaintiff's eyes when he was employed in the process, carried on by means of hand tools, of fettling of metal castings, involving the removal of metal. Diplock, J., dismissed the action. The plaintiff appealed.

SELLERS, L.J., said that, on the facts of the case, the duty under reg. 1 of the 1938 regulations to provide suitable goggles or effective screens to protect the plaintiff's eyes could only arise if the work which the plaintiff was carrying out at the time was a process, carried on by means of hand tools, of "Fettling of metal castings involving the removal of metal." The plaintiff was altering the design of the casting in order to make it fit; he was not fettling. The judgment of Diplock, J., was clearly right and therefore the appeal must be dismissed.

HARMAN, L.J., said that it was of no significance to look in the dictionary and, divorcing the word "fettle" from its context, arrive at its etymological or other definition. Words had to be construed in the context in which they appeared, in this case the regulations of 1938. Fettlers were people who did a well demarcated job, not a highly skilled one. It was a kind of trimming up of the castings as they came from the foundry. The work in question was not that work; it was a much more skilled job. It was in fact part of the fitter's job. His lordship agreed that the appeal should be dismissed.

PEARSON, L.J., delivered a concurring judgment. Appeal dismissed.

APPEARANCES: *D. P. Croom-Johnson*, Q.C., and *F. P. R. Hinchliffe* (*Evill & Coleman*); *D. J. Brabin*, Q.C., and *A. M. Prestt* (*George A. Herbert*, for *George Oates & Co.*, Manchester).

[Reported by A. H. BRAY, Esq., Barrister-at-Law] [1 W.L.R. 1130

RATES AND RATING: GREEN TIMBER STACKED SO AS TO DRY OUT: WHETHER INDUSTRIAL PROCESS

Buncombe (Valuation Officer) *v.* Baltic Sawmills Co., Ltd.

Sellers, Devlin and Danckwerts, L.JJ. 23rd June, 1961

Appeal from the Lands Tribunal.

A company of timber merchants and importers, in drying timber to comply with the British Standards Specification, stacked the green timber, which arrived from abroad, in a particular manner which facilitated a free flow of air between the boards. The method of stacking required some skill and experience so as to ensure good ventilation, but no further work was done to the timber, which was left for some three months to dry out. The Lands Tribunal held that two timber stores and premises were industrial hereditaments within the meaning of s. 3 (1) of the Rating and Valuation (Apportionment) Act, 1928, and entitled to the benefit of derating. The valuation officer appealed.

SELLERS, L.J., with whose judgment DEVLIN, L.J., concurred, said that the two hereditaments were clearly places where timber was stored and kept, facilitated by the method of stacking; but the company did not dry the timber, they stacked it in such a way that it dried itself. He could not regard this as an industrial process of any kind. *Poplar Revenue Officer* v. *William Mallinson & Sons, Ltd.* (1931), 2 D.R.A. 242, where a particular hereditament was set aside for the treatment of the timber, was distinguishable; that was not a case of mere storage. Premises used wholly or mainly for storage were not subject to derating (see s. 3 (1) (*d*) of the Rating and Valuation (Apportionment) Act, 1928) and he would hold that these premises were so used. The appeal should be allowed.

DANCKWERTS, L.J., delivered a concurring judgment. Appeal allowed.

APPEARANCES: *W. L. Roots*, Q.C., and *J. Raymond Phillips* (*Solicitor of Inland Revenue*); *C. E. Scholefield*, Q.C., and *Douglas Frank* (*Stone, Simpson & Hanson*, Tunbridge Wells).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

Chancery Division

VACATION COURT

LOCAL GOVERNMENT: INSTITUTION OF PROCEEDINGS BY SOLICITORS: RATIFICATION BY SUBSEQUENT RESOLUTION

Miller-Read *v.* Warwick Rural District Council

Warwick Rural District Council *v.* Miller-Read

Widgery, J. 9th August, 1961

Preliminary point on motions.

In January, 1961, a local authority served notice on the defendant to abate a statutory nuisance in relation to a caravan site owned by him in its administrative area. The owner did not comply with the notice, and on 27th March, 1961, began proceedings against the council. On 21st July, 1961, the solicitors to the council, invoking s. 100 of the Public Health Act, 1936, issued a writ against the defendant in the High Court and moved the court for an injunction to restrain him from keeping and maintaining the caravan site in such state as to be a statutory nuisance and prejudicial to health, contrary to s. 92 of the Act. Three days later, on 24th July, the council in meeting resolved to take all necessary steps to defend the action begun by the defendant on 27th March, and, "being of opinion that summary proceedings would afford an inadequate remedy to secure compliance" with the summary abatement notices served in January, to "take proceedings in the High Court . . . for . . . securing the abatement . . . of the statutory nuisance . . ." At the hearing of the motions, the defendant raised the preliminary objection that the council had no power to institute proceedings under s. 100 since at the date of the issue of the writ it had not expressed its opinion by resolution.

WIDGERY, J., said that the preliminary point was novel and difficult. For the council, it was said that the resolutions of 24th July could be regarded as a proper ratification of the action taken on behalf of the council by its solicitors three days previously. For the defendant, it was said that, if at the date of the writ there was no resolution of the council recording its opinion, it was at that date an incompetent plaintiff, having regard to the limitations imposed on a local authority by its constitution, and in those circumstances there could be no ratification of the agent's act. The substantial point raised was whether the fact that at the date of the

writ there was no resolution recording the council's opinion was a question which went to the capacity of the council to sue. In his lordship's judgment the council did not lack capacity to sue, for on 21st July there was an existing local authority which, if it had applied its mind to the question, would have had a capacity on that date to institute these proceedings. Where the interval was, as here, three days only, his lordship, in so far as he was entitled to consider the inchoate opinion of the council at the date of the writ, was driven to the view that it would have been the same as that expressed in the subsequent resolution. The preliminary point failed, and the proceedings were correctly constituted. Objection dismissed.

APPEARANCES: *H. E. Francis*, Q.C., and *E. W. H. Christie* (*Devonshire & Co.*, for *Wright, Hassall & Co.*, Leamington Spa); *R. E. Megarry*, Q.C., and *Jeremiah Harman* (*James and Charles Dodds*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

Queen's Bench Division

TOWN AND COUNTRY PLANNING: CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT: CONFIRMATION BY MINISTER

***Parrish *v.* Minister of Housing and Local Government**

Megaw, J. 22nd June, 1961

Motion.

The applicant, part of whose land was being compulsorily acquired by a local authority for the provision of school playing fields, applied to the authority under s. 5 of the Town and Country Planning Act, 1959, for a certificate of appropriate alternative development. The authority issued a certificate that planning permission could not reasonably have been expected to be granted for any other development, stating its reasons, namely, that in the event of the land not being required as playing fields it would have been retained as part of the metropolitan green belt. The applicant appealed to the Minister pursuant to s. 6 of the Act and an inquiry was held. It appeared that neither the Minister nor his inspector accepted the reasons given by the authority in the certificate and Megaw, J., was prepared to accept for the purposes of the case that certain statements of fact in the certificate, e.g., that the land was included in the green belt, were not correct. The Minister stated in a letter issued with his decision that he considered that development of the land would impair the visual amenities, and that he confirmed the certificate "and have done so in the terms of the document annexed hereto": attached was his decision headed "Confirmation of certificate," and a copy of the original certificate. The applicant applied under s. 31 for the Minister's decision to be quashed, alleging, *inter alia*, that the Minister had failed to comply with the "relevant requirements" (see s. 31 (11)) and that his action was not within the powers of the Act (see s. 31 (5) (*b*)), since the reasons contained in the certificate were inaccurate as to the facts adduced therein and, accordingly, the certificate was invalid and incapable of confirmation, and the reasons stated in the certificate confirmed by the Minister were not the reasons given by the Minister for the confirmation, and that the applicant's interests had been substantially prejudiced thereby.

MEGAW, J., said that there had been no failure to comply with any requirement of the Act. The Minister had confirmed the certificate because he agreed with the conclusion, which was the essential matter of the certificate, and he was entitled to confirm the certificate leaving in the original reasons, even though disagreeing with them, provided that he showed what his reasons were. Even if his lordship had reached a different conclusion, he would have been unable to hold that there was any prejudice to the applicant's interest within s. 31. It was not the certificate which fell to be quashed under s. 31, but the decision of the Minister, and the reasons which appeared in the certificate were irrelevant for any purpose for which the certificate would be used. It was impossible to say that the applicant was prejudiced merely because the certificate contained the wrong reasons. Motion dismissed.

APPEARANCES: *G. D. Squibb*, Q.C., and *F. H. B. Layfield* (*Lindus & Hortin*); *J. R. Cumming-Bruce* (*Solicitor, Ministry of Housing and Local Government*).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

PURCHASE TAX: DEMAND UNDER PURCHASE TAX REGULATIONS, 1945, REG. 12: WHETHER REGULATION *ULTRA VIRES*: WHETHER ASSISTANT SECRETARY AUTHORISED TO SIGN DEMAND

Commissioners of Customs and Excise *v.* Cure & Deely, Ltd.

Sachs, J. 21st July, 1961

Action.

P, a chief executive officer of Customs and Excise, signed a letter demanding from the defendants a sum of purchase tax, pursuant to a determination made under reg. 12 of the Purchase Tax Regulations, 1945. To a claim by the commissioners for the sum demanded, as a debt due to them, the defendants pleaded (1) that reg. 12 (which provides for assessment by the commissioners of a sum which shall be deemed to be the sum due in the event of an incomplete return or no return at all, and makes that assessment final unless the taxpayer satisfies the commissioners within seven days that some other sum is due) was *ultra vires* s. 33 of the Finance (No. 2) Act, 1940; (2) that the letter signed by *P* was not signed by a person authorised to sign under s. 4 (1) of the Customs and Excise Act, 1952.

SACHS, J., said that, until reg. 12 was made, no provision existed relating to purchase tax which attempted to exclude the jurisdiction of the courts. The court must examine the nature, object, and scheme of a piece of legislation to see whether the power claimed under the regulation fell within the four corners of the legislation. Regulation 12 was *ultra vires* on three grounds, which were distinct in law although they overlapped. First, it was no part of the functions of the commissioners to take upon themselves the powers of a judge; secondly, the regulation rendered the subject liable to pay such tax as the commissioners deemed to be due, whereas the charging sections provided for the payment of that which was lawfully due; thirdly, it excluded the subject from access to the courts, and could be used for that purpose even though proceedings were pending. There was also a subsidiary repugnance between the regulation and that part of s. 21 of the 1940 Act which made obligatory the reference of certain matters to arbitration. With regard to s. 4, since a demand involved the exercise of discretion and did not necessarily follow on a determination, the point was whether "done" could be construed as "authorised." Section 4 (1) seemed designed for the protection of those who might be affected by the acts of the commissioners, and in a taxing statute the words should be restrictively construed. Further, the statute as a whole drew a distinction between acts which the commissioners had to do personally, and those which they could delegate. Consequently, the plaintiffs failed on both issues. Judgment for the defendants.

APPEARANCES: *J. R. Cumming-Bruce* (*Solicitor, H.M. Customs and Excise*); *Peter Boydell* (*Stafford Clark & Co.*, for *Faber & Co.*, Birmingham).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

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(*Continued on p. xix*)

Probate, Divorce and Admiralty Division

HUSBAND AND WIFE: DIVORCE: QUESTIONS RELATING TO ADULTERY: WHETHER ADMISSIBLE

Clifford *v.* Clifford (Practice Note)

Cairns, J. 16th June, 1961

Defended divorce.

At the hearing of a divorce suit in which the wife petitioned on the ground of cruelty and the husband cross-charged the wife with desertion, counsel for the husband put questions to the wife in cross-examination as to whether she had committed adultery. The wife's counsel objected to these questions on the ground that no allegation of adultery by the wife was on the pleadings.

CAIRNS, J., said that the range of cross-examination as to credit was very wide. If counsel had such instructions as enabled him to put questions to a witness causing the witness to hedge or prevaricate, the credit of the witness might be very much shaken. But responsible counsel would not put questions relating to adultery unless he had instructions which, if true, would indicate that there was a probability that adultery had been committed. If an admission were obtained, it would put a fresh complexion on the suit of which the court would have to take notice. If the witness denied the matters so put, his or her evidence must be accepted. His lordship had accordingly over-ruled the objection and allowed the questions to be put.

APPEARANCES: *A. Tibber* (*Cowdrey, Kaye & Co.*); *Derek Wheatley* (*Vandamm & Co.*, for *Nolan & Janes*, Southend).

[Reported by Miss MARGARET BOOTH, Barrister-at-Law]

PROBATE: WILL: CODICIL REFERRING TO PRIOR UNEXECUTED WILL: POWER OF THE COURT TO ALTER CODICIL

***In re* Montgomerie**

Cairns, J. 26th July, 1961

Probate motion.

A testator drafted a will in 1954 which was never executed. In 1957 he made and duly executed a second will. In 1959 the testator executed a codicil in which he referred to his will dated 1954. The plaintiffs, the executors under the 1957 will, applied to the court to strike out the reference to the 1954 will from the codicil and to propound for the 1957 will and the codicil.

CAIRNS, J., said that in his view it was quite possible for the testator to have forgotten the will he had made in 1957 and to remember only his draft will of 1954. His lordship was satisfied that, in the circumstances of the case and having regard to *In the Goods of Gordon* [1892] P. 228, the court was empowered to correct the codicil and to omit the words in question from it. His lordship pronounced for the will of 1957 and the codicil of 1959 in solemn form of law. Order accordingly.

APPEARANCES: *John Mortimer* (*Kenneth Brown, Baker, Baker*, for *H. E. Harrowell, Bloor & Fox*, York); *John Gardner* (*Herbert Smith & Co.*, for *Harland, Leeman & Walster*, York); *James Petrie* (*Fisher, Dowson & Wasbrough*).

[Reported by Miss MARGARET BOOTH, Barrister-at-Law]

DIVORCE: INSANITY: NECESSITY FOR DISCHARGED MENTAL PATIENT TO TAKE DRUG

Webb *v.* Webb

Mr. Commissioner Latey, Q.C. 31st July, 1961

Defended suit for divorce.

A wife petitioned in June, 1960, for divorce on the ground of the husband's incurable unsoundness of mind. The husband denied the allegation. The marriage took place in 1936. In 1948, the husband was certified to be of unsound mind; he was admitted to hospital and remained an in-patient until after the presentation of the wife's petition. In August, 1960, however, he discharged himself from hospital and returned to the matrimonial home, where he had lived ever since, though separate from the wife, who refused to live with him. The evidence of the medical superintendent of the hospital in which the husband had been an in-patient was that, in his opinion, the husband was not cured, or curable in the sense that his mental state could be returned to what was normal and average for the population, without the aid of drugs: he had been prescribed largactil, and whilst he took that drug he was sane, but if he ceased to take it he would, in all probability, again become insane.

Mr. COMMISSIONER LATEY, Q.C., said that there was no statutory definition of the phrase "incurably of unsound mind" or of "unsoundness of mind." The opinions of doctors had to be given due weight, but the court had to decide these matters on all the facts of the case. The phrase "of unsound mind" had, in the past, been accepted by the court in its ordinary, somewhat indeterminate, meaning, in the case of anyone lawfully certified as such. But that yardstick had now gone. There was no longer any certification containing the phrase "of unsound mind." Having regard to recent legislative policy of extending the range of voluntary patients and of de-certifying certified patients, it might well be that a large proportion of mental patients, whether voluntary or certified, did not come within the category of persons of unsound mind for the purposes of divorce. The husband had given evidence and, whilst in the witness-box, showed no sign of mental disorder. His lordship accepted him as a reasonable man, a truthful witness, and a person fully qualified to manage his affairs. He respected the sincerity of the opinion of the medical superintendent, but was not persuaded by it. He could not find that the husband was incurably of unsound mind, or even that he was of unsound mind. Petition dismissed.

APPEARANCES: *R. J. A. Temple*, Q.C., and *Neil Taylor* (*W. B. Blackwell & Co.*); *James Comyn*, Q.C., and *B. H. Pearce* (*Official Solicitor*).

[Reported by D. R. ELLISON, Esq., Barrister-at-Law]

Court of Criminal Appeal

CRIME: RECEIVING: GOODS DELIVERED TO PREMISES IN ABSENCE OF DEFENDANT

R. *v.* Cavendish

Lord Parker, C.J., Winn and Widgery, JJ. 14th February, 1961

Appeal against conviction.

A driver employed by a company gave a short delivery at one of his places of call and took six barrels of oil which he should have delivered to a customer to the defendant's yard, where they were unloaded by an employee of the defendant; at the same time the driver took away from the yard seven empty oil barrels. The defendant was not at the yard at the time, and when he returned an hour later and was questioned by the police he denied all knowledge of what had taken place. The defendant was charged with receiving the oil, the case for the prosecution being that the delivery of the oil by the driver must have taken place as a result of some arrangement between the defendant and the driver. At the close of the prosecution's case counsel for the defendant submitted that there was no case to answer, in that there was no evidence that the defendant had possession of the oil. The deputy chairman overruled that submission, evidence was called for the defence, and the defendant was convicted. The defendant appealed.

LORD PARKER, C.J., said that before a man could be found to have possession, actual or constructive, of goods, something more had to be proved than that the goods had been found on his premises; if he was absent, it had to be shown either that on his return he became aware of them and exercised some control over them or that they had come, albeit in his absence, at his invitation or by arrangement. Nor could a man be convicted of receiving goods of which delivery had been taken by his servant unless there was evidence that he had given the servant authority or instructions to take the goods. This was a borderline case but there was some evidence which made it more probable than not that the delivery of the oil by the thief, the driver, was by arrangement with the defendant, and on that ground the court was satisfied that the deputy chairman was right in overruling the defence submission. Appeal dismissed.

APPEARANCES: *B. E. Capstick* (*Victor Mishcon & Co.*); *H. J. Leonard* (*Solicitor, Metropolitan Police*).

[Reported by Miss J. F. LAMB, Barrister-at-Law] [1 W.L.R. 1083

SENTENCE: CORRECTIVE TRAINING: WHETHER APPROPRIATE FOR BIGAMY

***R. *v.* Hawcroft**

Slade, Havers and Sachs, JJ. 24th July, 1961

Appeal against sentence.

The appellant was convicted of bigamy on 16th March, 1961, and sentenced to two years' corrective training. He appealed, *inter alia*, on the ground that corrective training was not an appropriate sentence for the offence of bigamy.

SLADE, J., said that there seemed, at first sight, to be some authority for such an argument but the sentence was fully justified in the present case. In the opinion of the court, the judge had not erred in principle, although it was true that only in rare cases of bigamy would such a sentence be appropriate. Appeal dismissed.

APPEARANCES: *J. Crabtree* (*Registrar, Court of Criminal Appeal*).

[Reported by Miss H. STEINBERG, Barrister-at-Law]

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A SELECTION OF POINTS ARISING FROM THE PROVISIONS OF THE BETTING AND GAMING ACT, 1960

(*Continued from p. 689, ante*)

" Bingo "—PLAYING IN SEASIDE CAFE RESTAURANT—SECTION 20 OF THE BETTING AND GAMING ACT, 1960.

Q. A client of ours who runs a seaside café restaurant has asked for advice on whether he can during certain times organise the playing of " Bingo " on these premises and whether he requires any permit for this. We gather that amusement arcades and similar places in a lot of the more popular seaside resorts are now running " Bingo " sessions, but the local authorities in our area have not been approached on the matter. As far as we can see, s. 24 of and Sched. III to the Betting and Gaming Act, 1960, are not applicable to " Bingo " but only to pin-tables and it seems to us that the organisers of " Bingo " entertainments are probably relying upon s. 4 of the Small Lotteries and Gaming Act, 1956. We think that what our client had in mind was: (1) To charge, say, 1s. for admission to the sessions (we should think that this could be justified as a reasonable charge for the use of the premises and our client would, we think, rely upon the sale of refreshments to participants for his profit). (2) To sell the cards of numbers at, say, 6d. each and, assuming there were eighty persons some of whom took more than one card, this might produce a total of £2 or £3, all of which would be distributed as prizes. (3) If the sessions went on for two hours, there might well be twelve or more distributions of prizes and the total amount so distributed in an afternoon or evening would probably exceed £20 but be unlikely to exceed £100 (we are wondering whether s. 4 (5) of the 1956 Act referring to a series of entertainments would be applicable). If s. 4 of the 1956 Act covers the procedure mentioned above, then it would appear that no permit from the local authority is required but we shall be glad to have your opinion on this.

A. While amusement arcades are governed by s. 24 of the Betting and Gaming Act, 1960, we think that your client could play " Bingo " in accordance with s. 4 of the Small Lotteries and Gaming Act, 1956, and s. 20 of the Act of 1960. If he does this, no permit would be required, but he would have to comply, *inter alia*, with the following conditions: (i) not more than one payment (whether by way of entrance fee or stake or otherwise) must be made by each player in respect of all games played and such payment must not exceed 5s. (s. 4 (1) (*a*) of the 1956 Act); (ii) there must be not more than one distribution of prizes in respect of all games played and the total value of these prizes must not exceed £20 (ibid., s. 4 (1) (*b*)); (iii) after deducting expenses and prizes, the whole of the proceeds must be devoted to purposes other than purposes of private gain (ibid., s. 4 (1) (*c*)); see *Payne and Others* v. *Bradley*, p. 566, *ante*; (iv) the amount deducted for expenses must not exceed the reasonable cost of providing the facilities (ibid., s. 4 (1) (*d*)). In our view, such an entertainment would come within s. 4 (4) rather than s. 4 (5) of the 1956 Act; for this reason, the total value of prizes should not exceed £20.

" Bingo "—DIVIDING PROCEEDS BETWEEN CHURCH AND SOCIETY —SECTION 20 OF THE BETTING AND GAMING ACT, 1960.

Q. A society which is registered under the Small Lotteries and Gaming Act, 1956, holds " Bingo-drives." Each person who attends pays 2s. 6d. at the door. After prizes have been given, one-half of the profit is given to a church and the other half is retained by the society. Is this in order and what is the limit of the amount which can be paid out in prizes? What is meant by " cultural activities " and would such activities include singing and dancing, and can the society divide the half of the profit retained by it for teaching dancing? Are persons under sixteen years of age allowed to play at " Bingo "?

A. It would seem that the legality of such an " entertainment " (see *Bow* v. *Heatley* 1960 S.L.T. 311) is now determined by s. 20 of the Betting and Gaming Act, 1960, which incorporates many of the provisions of s. 4 of the Small Lotteries and Gaming Act, 1956. If this is the case, the total value of prizes must not exceed £20 (ibid., s. 4 (1) (*b*)) and, after deducting expenses and prize money, the whole of the proceeds must be " applied for purposes other than purposes of private gain " (ibid., s. 4 (1) (*c*)). In view of the decision of the House of Lords in *Payne and Others* v. *Bradley*, p. 566, *ante*, such proceeds could be given to the church but no part of them could be retained by the society. Alternatively, the game could be played in accordance with s. 16 of the 1960 Act. The question of the participation of children under sixteen is determined by s. 16 (3) of the Act of 1960.

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West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.

Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Worthing.—STREET & MAURICE, formerly EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.

Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.

Worthing.—PATCHING & CO., Est. over a century. Tel. 5000. 5 Chapel Road.

Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2. Midland 4784 (4 lines).

Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.

WARWICKSHIRE (*continued*)

Coventry.—CHAS. B. ODELL & CO. (Est. 1901). Auctioneers, Surveyors, Valuers and Estate Agents, 53 Hertford Street. Tel. 22037 (4 lines).

Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).

Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.

Windermere.—PROCTER & BIRKBECK (Est. 1841). Auctioneers, Lake Road. Tel. 688.

WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2, And at Ashby-de-la-Zouch, Burton-on-Trent and Derby.

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

Kidderminster, Droitwich, Worcester.—G. HERBERT BANKS, 28 Worcester Street, Kidderminster. Tels. 2911/2 and 4210. The Estate Office, Droitwich. Tels. 2084/5. 3 Shaw Street, Worcester. Tels. 27785/6.

Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & HEATON, 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (*continued*)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I. Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).

Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 3399/2.

Leeds.—SPENCER, SON & GILPIN, Chartered Surveyors, 132 Albion Street, Leeds, 1. Tel. 30171.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street, Tel. 30429.

Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.

Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.

Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.

Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3493/4.

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PUBLIC NOTICES—INFORMATION REQUIRED—CHANGE OF NAME
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APPOINTMENTS VACANT—APPOINTMENTS WANTED—PRACTICES AND PARTNERSHIPS and all other headings
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Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

BOROUGH OF EDMONTON
ASSISTANT SOLICITOR

Applications invited for this appointment at J.N.C. Salary Scale "B" (£1,400 × £65 (3) and £75 to £1,670). Commencing salary according to experience.

Post offers wide experience, including committee work, advocacy, conveyancing, town planning, slum clearance and redevelopment. Five-day week.

Applications, stating age, qualifications and experience and naming two referees, should reach the Town Clerk, Town Hall, Edmonton, N.9, by 28th August, 1961.

URBAN DISTRICT COUNCIL OF URMSTON
SOLICITOR

Applications are invited for this post in the Clerk's Department.

Salary within A.P.T. V (£1,310–£1,480) progressing to Grade "A" (maximum £1,565). Entry point, according to experience, up to £1,420.

Housing accommodation will be provided if required and assistance given towards removal expenses.

Details of duties, conditions of appointment, etc., obtainable from the undersigned, by whom applications should be received by 28th August, 1961.

L. WATKINS,
Clerk of the Council.

Council Offices,
Urmston,
Nr. Manchester.

KENT COUNTY COUNCIL
APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the above-mentioned appointment, the duties of which will be in connection with prosecutions, advocacy and general legal work. Salary range A.P.T. III/V (£960–£1,480). Commencing salary according to age, qualifications and experience. Applications, with the names of two referees, should reach the undersigned by the 1st September, 1961.

G. T. HECKELS,
Clerk of the County Council.

County Hall,
Maidstone,
Kent.

BOROUGH OF WATFORD
ASSISTANT SOLICITOR

Applications are invited for the above appointment on Grade A (within range £1,415–£1,565). Post offers wide experience, especially of property acquisition, management and development. Five-day week. Housing accommodation considered. Applications with names and addresses of two referees should reach me by 6th September, 1961.

GORDON H. HALL,
Town Clerk.

Town Hall,
Watford.

APPOINTMENT OVERSEAS GOVERNMENT OF FIJI
VACANCY FOR CROWN COUNSEL
(Male candidates only)

Applications are invited from Barristers or Solicitors for appointment as Crown Counsel in Fiji.

Terms of Appointment: On Contract for one tour of three years, with gratuity on satisfactory completion of service, with emoluments in the incremental scale of £1,162–£1,802 (inclusive of post allowance). Free passages. Generous leave. Taxation at local rates.

Qualifications: Not less than three years' professional experience either as a Barrister since Call, or as a Solicitor since Admission, is desirable. Age limit, preferably under 45.

Further particulars and application form from Director of Recruitment, Department of Technical Co-operation, Carlton House Terrace, London, S.W.1. Applicants should state full name, and give brief particulars including age and dates of qualification and of Call/Admission, and quote reference number RC 204/50/01/N2.

URBAN DISTRICT COUNCIL OF COULSDON AND PURLEY
(Population 74,900)
ASSISTANT SOLICITOR

Applications are invited from duly qualified Solicitors for the above appointment. Duties will include general legal work and advocacy (including Planning Appeals). Salary within A.P.T. V (£1,355–£1,525 inclusive of London Weighting). Commencing salary according to experience. Housing accommodation available if required. Five-day week. Assistance towards removal expenses.

Applications on forms to be obtained from me, together with two recent testimonials to be received not later than Friday, 15th September, 1961.

Canvassing will disqualify.

ERIC F. J. FELIX,
Clerk of the Council.

Council Offices,
Purley,
Surrey.

BREDBURY AND ROMILEY URBAN DISTRICT COUNCIL
ASSISTANT SOLICITOR

Applications are invited for this appointment, at a salary within A.P.T. Grade IV (£1,140–£1,310) and generally in accordance with the Scheme of Conditions of Service for local authorities' professional employees. No previous local government experience necessary. June finalists will be considered.

Fuller particulars of the appointment and application form may be obtained from the undersigned. Closing date 18th September, 1961.

D. W. TATTERSALL,
Clerk of the Council.

Council Offices,
George Lane,
Bredbury,
Cheshire.

THE RURAL DISTRICT COUNCIL OF GODSTONE
APPOINTMENT OF DEPUTY CLERK OF THE COUNCIL

Applications are invited from Solicitors with local government experience for the above appointment at a salary in accordance with J.N.C. Scale "C" £1,560–£1,825 p.a.

Housing accommodation (if required). Five-day week.

Applications with names and addresses of two referees to reach the undersigned not later than 7th September, 1961.

M. HAWORTH,
Clerk of the Council.

Council Offices,
Oxted, Surrey.

BOROUGH OF WHITEHAVEN
TOWN CLERK'S DEPARTMENT

Applications are invited for an experienced CONVEYANCING ASSISTANT able to work with minimum of supervision. Duties, though mainly legal, may include some other work. Previous local government experience, though desirable, not necessary. Salary in Grades III–IV £960–£1,310. Commencing salary according to circumstances.

Housing accommodation available and removal expenses paid on usual terms.

The post is superannuable and subject to medical examination.

Applications with copy testimonials, or names of two referees, and stating availability for interview, to be sent to the undersigned by Monday, 4th September, 1961.

W. H. J. BROWNE,
Town Clerk.

Town Hall,
Whitehaven.
3rd August, 1961.

COUNTY BOROUGH OF NORTHAMPTON
ASSISTANT SOLICITOR

Salary within A.P.T. IV (£1,140–£1,310) commencing according to ability and experience. Post offers wide variety of experience in all branches of local government including attendance at committees, general legal work, conveyancing and advocacy.

Local Government experience not essential; Five-day week.

Applications with names of two referees to reach me by 28th August.

C. E. VIVIAN ROWE,
Town Clerk.

Guildhall,
Northampton.

NEW SCOTLAND YARD
PROSECUTING SOLICITORS on permanent staff of Solicitor's Department. Age 24–40. Starting salary £1,150 at age 24 to £1,703 at age 35 (or over). Scale maximum £1,937. Non-contributory pension. Good prospects of promotion. No previous experience required of criminal prosecutions. Particulars from Secretary, Room 165 (LA), New Scotland Yard, S.W.1.

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★ Classified Advertisements ★

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APPOINTMENTS VACANT

SHEFFIELD.—Two partners in busy family practice have vacancy for a solicitor with some experience; conveyancing, probate and general work, no advocacy; generous remuneration and good future prospects with a view to salaried partnership after short trial period; applicants of all ages considered.—Box 7979, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

GLOS./MON. Border town.—Sole practitioner requires assistant solicitor; probate and conveyancing essential but all-round ability preferred; some advocacy or willingness to take up; partnership after reasonable period to conscientious worker; capital not essential. —Box 7980, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

A SOLICITOR with extensive conveyancing experience is required for a post of responsibility, with partnership prospects in a large City firm. The position demands a man in the £2,000–£2,500 a year class. Reply to Box 7981, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

KENT Solicitors, 12 miles from London, require Assistant Solicitor. Mainly Probate and Conveyancing with some Litigation. Salary by arrangement.—Box 7982, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SECRETARY/Shorthand-Typist required by Solicitor i/c Company Legal Department. Primarily conveyancing, some litigation. Previous legal experience essential. 5-day week. Near Vauxhall Bridge. Telephone Staff Manager, VIC 7814.

SOMERSET.—Probate Managing Clerk required for general practice in delightful country town; suit man wishing to leave town for country, or young man willing to accept responsibility. Housing accommodation available.—Box 7983, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

INDUSTRIAL Group, Headquarters Birmingham, has vacancy for Solicitor in Secretarial Department. Position would suit recently-qualified Solicitor desirous of making a career in industry. Conveyancing experience desirable. State age, experience, qualifications, present salary, and when available to Box 7984, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Managing Clerk (unadmitted) preferably aged 30–35, required by Legal Department of The Agricultural Mortgage Corporation Limited. Pension scheme.—Please apply by letter marked "Private" to Mr. H. W. Osborne, Bucklersbury House, 83 Cannon Street, London, E.C.4, with particulars of age, experience and salary required.

BLACKPOOL Solicitors require Conveyancing Clerk, male or female, salary according to experience. Apply in writing to Spencer & Holden, 39 Adelaide Street, Blackpool.

NEWCASTLE Insurance Company has opening suitable for Common Law Clerk in connection with the investigation of Employers Liability and Public Liability claims. Excellent prospects for a young man aged about 25/30. An interesting and progressive post with good salary and non-contributory pension scheme. Write giving full details to Box 7987, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SENIOR unadmitted Conveyancing Managing Clerk required for important permanent position in Central London practice. Substantial salary. Excellent working conditions and prospects. Pension Scheme.—Box 7986, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR required to develop and control legal department, as part of multiple company's organisation. Sound knowledge of County Court and Hire Purchase procedure essential, together with practical business ability. Minimum basis of remuneration £1,500 p.a. with considerable scope. Pension Scheme in operation.—Apply Box 7962, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LITIGATION Managing Clerk required by long-established West End firm to cope with expansion. Prospects for admitted applicant for full partnership without payment. Would consider free articles to unadmitted applicant with sufficient ambition with same end in view. Salary in neighbourhood of £1,250 to commence.—Box 7963, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Managing Clerk (unadmitted) required by West End firm to commence separate Department to handle increased volume of work. Excellent opportunity for ambitious young man with sufficient experience. Knowledge of Company work an advantage. Salary commensurate.—Write Box 7964, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTH-EAST London Solicitors in general practice with considerable County Court work have vacancy for Assistant Solicitor willing to undertake advocacy. Good prospects for young man or woman. 5-day week. Salary according to age and experience. Write with details. Box 7967, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ICFC

Applications are invited from Solicitors to fill a vacancy for a

LEGAL ASSISTANT

in the Legal Department in the City Head Office of Industrial and Commercial Finance Corporation Limited.

The Corporation provides long period loans and/or share capital to small and medium sized businesses. The work is interesting and provides ample opportunity for a young man (or woman) of ability to gain a wide experience in commercial and company law in all its aspects.

Salary according to age, qualifications and experience. Good Pension and Life Assurance scheme.

Applicants, preferably under 30 and with not less than 2 years' experience in private practice since admission, should write (marked CONFIDENTIAL) giving full details, to:

Chief Legal Officer,
I.C.F.C.,
7 Drapers' Gardens, London, E.C.2

CONVEYANCING Manager required by well-established West End firm. Suit admitted man with necessary qualifications and experience with view to ultimate full partnership without payment. Unadmitted man should also apply especially young man with aspirations for free articles and admission. Good prospects for keen and ambitious applicant. Commencing salary £1,250 or according to services offered.—Box 7965, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

READING Solicitors require (*a*) Young Assistant Solicitor. Some prospects of future partnership. (*b*) Conveyancing Clerk. (*c*) Litigation Clerk. (*d*) Articled Clerk. No premium. Salary. State experience and salary required.—Box 7970, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

W.R. YORKS.—Assistant Solicitor with some experience in litigation and advocacy required by old-established practice (mainly Conveyancing and Probate) Salary by arrangement. Partnership prospects later.—Box 7966, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MID-SUSSEX Solicitors with busy Conveyancing and General Practice in rapidly expanding town require services of young Solicitor with all-round experience, ability and initiative. Newly qualified man considered. Ultimate partnership prospects. Salary up to £1,000 according to age and experience.—Box 7969, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

JUNIOR Assistant Solicitor required by Portsmouth Solicitors.—Box 7973, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BRISTOL solicitors require experienced conveyancing managing clerk used to undertaking substantial transactions; salary by arrangement according to experience; pension scheme available.—Box 7942, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EAST ANGLIA.—Solicitor required for general practice (including advocacy) in County town. Salary up to £1,000 per annum for first-class recently admitted man but more for man with some experience since admission.—Box 7961, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SALARIED Partnership available within a reasonable time, to a really able young Solicitor aged 25 to 32 years, in Wiltshire town. Excellent opportunities for man of ability and personality. Assistance given with Housing and School expenses.—Box 7945, Solicitors' Journal, Oyez House, Breams Building, Fetter Lane, E.C.4.

PERSONABLE and energetic Solicitor required to take control of an old-established and active office in a pleasant town in West Hertfordshire about 30 miles from London. Applicant should be at least 28 years of age and would commence at a salary of £1,500 per annum or according to experience. Good prospects of partnership. —Box 7943, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR assistant required by Sussex coast solicitors; some advocacy; £1,500 per annum for right man.—Box 7939 Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

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APPOINTMENTS VACANT—*continued*

WEST SUSSEX.—Assistant Solicitor required to take charge of Litigation Department. Possibility of partnership later. Salary according to experience but not less than £1,250.—Box 7897, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR required, Walham Green, S.W.6. Mainly Conveyancing and Probate. Partnership prospects. Write details experience and salary required.—Box 7947, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA.—Solicitors require Assistant Solicitor for expanding practice, mainly conveyancing and probate, with opportunities for litigation and advocacy. Partnership prospects. Commencing salary not less than £900 or according to length of experience.—Box 7935, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

SOLICITOR, 31, with own small practice, seeks part-time or full-time employment with West End, City or North London firm, where facilities would be given; fully experienced in Conveyancing, Probate and some litigation.—Box 7988, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICES AND PARTNERSHIPS

FOR SALE.—Substantial and growing practice in South East London.—Apply Box 7950, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICE for sale in Wales.—Box 7949, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

FOR SALE.—Medium-sized varied practice, in S.E. London. Would suit solicitor of good all-round capability or large firm seeking remunerative branch office.—Box 7985, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PREMISES, OFFICES, ETC.

OFFICE wanted in City or Kings Cross areas; main thoroughfare, 1st or 2nd floor; 200 to 600 sq. ft.; would share.—Strand Business Agencies, 322 High Holborn, W.C.1.

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PROFESSIONAL ANNOUNCEMENTS

TRANSLATIONS.—V. Clayton, Market Rasen.

GERSHON, YOUNG & CO. of 45 Weymouth Street, London, W.1, announce that as from the 21st August, 1961, they have moved into their new offices at 17 Stratton Street, London, W.1,—telephone Hyde Park 6601/4.

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BOOKS AND PERIODICALS

THE "CORDEX" SELF-BINDING CASE specially designed to contain issues of THE SOLICITORS' JOURNAL is now available price 14s., post free. Capacity 26 issues and index. Issues easily inserted or removed.—The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

VALUATIONS

ANTIQUE AND MODERN FURNITURE, Silver, Porcelain, Pictures, Books and all descriptions of Chattel Property VALUED FOR PROBATE, INSURANCE OR FAMILY DIVISION, or, if desired, included in specialised auction sales. Sales also arranged by tender or private treaty.—Phillips, Son & Neale, 7 Blenheim Street, New Bond Street, W.1. Telephone No.: MAYfair 2424. Est. 1796.

REVERSIONS, LIFE POLICIES, ANNUITIES and UNQUOTED SHARES.—H. E. Foster and Cranfield, 6 Poultry, E.C.2, specialise in the valuation of these interests for probate purposes. Established 1843.

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Classified Advertisements

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VALUATIONS—*continued*

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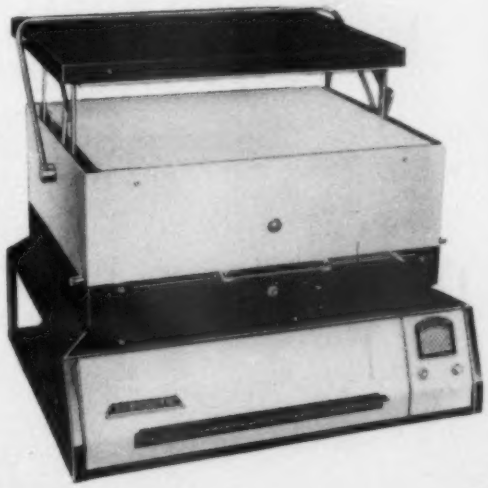

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